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ABSTRACT

This report from the California Postsecondary Education Commission presents the chief rationale for each of the proposed regulations concerning degree-granting private postsecondary institutions in California under Chapter 3 Part 59 of the Education Code. It is submitted for consideration by California's new Council for Private Postsecondary and Vocational Education. The statement reflects the Commission's expertise gained from over 140 site visits in the past five years to unaccredited degree-granting institutions in California and represents a response to questions broached to the Commission during the process of drafting the regulations. Twenty-eight regulations are presented and defined, as well as the factual information the Commission used in establishing their responses. (GLR)

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STATEMENT OF REASONS

FOR PRELIMINARY DRAFT REGULATIONS FOR CHAPTER 3 OF PART 59 OF THE EDUCATION CODE

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Prepared by the
California Postsecondary Education Commission
for the Council for Private Postsecondary and Vocational Education

Summary

Through Assembly Bill 1993 (1989, Farr), the Legislature directed the California Postsecondary Education Commission to help the new Council for Private Postsecondary and Vocational Education draft preliminary regulations in order to implement new laws regulating private colleges and vocational schools in California. The Legislature specified that the Commission deliver those draft regulations to the Council by December 31, 1990, for the Council's consideration when it assumes its duties on January 1, 1991, from the Private Postsecondary Education Division of the Department of Education. On December 10, the Commission authorized transmittal of those draft regulations to the Council, and it published them as Commission Report 90-31.

The Commission also prepared this *Statement of Reasons* explaining its rationale for each of the regulations concerning degree-granting institutions. The Office of Administrative Law will require such a statement of reasons as part of the Council's submission of its proposed regulations to the Office for approval. This statement reflects the Commission's expertise gained from over 140 site visits in the past five years to unaccredited degree-granting institutions in California.

The Commission has also published the testimony it received at two public hearings on the draft regulations in Commission Report 90-25, *Public Testimony Regarding Preliminary Draft Regulations to Implement the Private Postsecondary and Vocational Education Reform Act of 1989*. Copies of that document as well as the draft regulations and additional copies of this statement are available without charge from the Commission at (916) 324-4991.

Questions about the substance of this statement may be directed to Dale M. Heckman of the Commission staff at (916) 322-8023.

STATEMENT OF REASONS

FOR PRELIMINARY DRAFT REGULATIONS FOR CHAPTER 3 OF PART 59 OF THE EDUCATION CODE

Prepared by the
California Postsecondary Education Commission
for the Council for Private Postsecondary and Vocational Education

COMMISSION REPORT 90-32
PUBLISHED DECEMBER 1990

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INTRODUCTION

The attached draft "Statement of Reasons for Proposed Regulations" presents the chief rationale for each of the regulations regarding degree-granting private postsecondary institutions in California (ref. California Education Code Chapter 3 -- §94301ff.) that the California Postsecondary Education Commission has developed for consideration by California's new Council for Private Postsecondary and Vocational Education. Such formal rationale is a required part of the process for gaining approval of regulations by the Office of Administrative Law.

While the Commission has yet to add a few last authoritative citations, this draft substantially explains the proposed regulations that, in turn, derive directly from statutory intent. It builds, as it naturally must, on broad and long-time common practice in the field of higher education and academic degrees as generally known in the United States. But it also draws on Commission staff observation, analysis, and reflection accumulated in the course of participating in site visits to over 140 unaccredited, degree-granting institutions in California over the past half-decade. Thus, while some of the proposed regulations and their reasons may prove controversial, it cannot be maintained that they have no foundation in experience.

This draft seeks to respond to questions broached to the Commission during the process of drafting the regulations, as well as to some questions that were raised only rhetorically. For example, the term *consumers* in the question "Who are the consumers of academic and professional degrees?" might be used by some observers in a context that envisions private-sector degree-granting institutions simply as business enterprises. Instead, the Commission's suggested regulations offer a broader response to that key question. If the "consumers" of these institutions were indeed only those individuals who apply for and receive degrees, then the sale and purchase of these credentials would amount to a private transaction between consenting adults, and only the normal rules of marketplace enterprise would need to prevail. Yet California's statutes, the draft regulations proposed to implement them, and these "reasons" for each regulation recognize that the "consumers" of degrees include a wide swath of society, beginning with those private corporations and public agencies that, as employing bodies, count on a particular earned degree to faithfully represent the common meaning of that degree. And beyond employers, broad segments of the educated public also assume that, to earn a particular degree, the bearer has traversed particular experiences, and is familiar with particular subject matter, habits, and skills. So, to the extent that degrees have become a kind of common currency in modern society, even the general public at large has a significant stake in degree titles retaining their commonly recognized meanings.

In this statement of reasons, the Commission has endeavored to provide, at crucial points that may seem abstract, examples based on real experience. Illuminating the foregoing issue about educational "consumers," New York State officials are wondering at this moment what action to take regarding a candidate seeking to manage a youth rehabilitation

program in that state who wishes to satisfy one of the employment requirements with a college degree purportedly in "Human Services" from an unaccredited private California institution -- a degree that he acquired swiftly if not inexpensively. In this actual instance, "consumers" surely must include those troubled youth who might come under his supervision as well as the New York State agency that may hire him.

Much of the California Legislature's recent statutory concern with private postsecondary education, and therefore of the Commission's suggested regulations and these reasons, focuses on the most venerable consumer issue: truth in labeling. It is one thing for a private institution to teach whatever it wants to teach, even for profit; but quite another thing to call it whatever the vendor alone wishes to call it. In this State, neither pharmacists nor storekeepers may mislabel their wares. Similarly, the Legislature, the Commission, and these reasons assume that vendors of education may not call something an academic degree unless it conforms rather closely to the common understanding of that phrase. Nonconformists are thus entirely welcome to innovate, but they should be expected to create new and innovative labels for the sake of clarity and common understanding.

It hardly requires mention, but the Commission believes the best way to read this "Statement of Reasons" is literally side-by-side with the draft regulations to which it refers -- the *Preliminary Draft Regulations for Chapter 3 of Part 59 of the Education Code* that the Commission published as Report 90-31 in December 1990 and that are available from the Commission at (916) 324-4991 or from the Publications Office of the Commission, Third Floor, 1020 Twelfth Street, Sacramento California 95814-3985.

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STATEMENT OF REASONS
FOR THE PROPOSED REGULATIONS
FOR APPROVING DEGREE-GRANTING INSTITUTIONS

Regulation 100 Definitions

[Note: For reasons for *specific* definitions, see Regulations 100 (e) through 100 (s) below.]

PROBLEM:

California Education Code §94302 has been revised (SB 190, Morgan 1989) to contain definitions necessary to clarify changes in the statutes governing private postsecondary educational institutions.

Those definitions in statute, however, do not include all technical, academic or varying terminology used in the amended (1990) Chapter 3 in reference to degree-granting institutions.

PURPOSE:

To clarify the meanings of certain terminology used in statute and regulations governing the non-public, non-accredited institutions that award academic and professional degrees in California.

FACTUAL BASIS:

1. In American society academic learning and teaching comprise a distinct kind of endeavor among the several kinds of learning and teaching, with its own common terminology. (Cf. Funk and Wagnalls: *Standard College Dictionary*, 1988 edition; "academic" entry.)

   Beyond the secondary school level, academic and "higher" education become practically synonymous, meaning not only a certain *level* of learning but also learning that falls within certain broad *types*, not types of subject matter but ways of dealing with any subject matter. As implied by the statute's separate mention of "postsecondary vocational," not all types of advanced and technically complex learning fit the common meaning of higher or academic learning; nor does a simple arithmetical accumulation of credit units tally up automatically to the equivalent of an academic "degree," as that term is commonly understood.

   Although academic learning, teaching, and degrees grow from a distinct culture with its own history transcending state and national borders, its degrees and other symbols have acquired increasing economic value and public significance for Californians in the past half century. Its "consumers" include not only the recipients of such degrees but also (a) private firms and public agencies that require certain degrees for employ-

ment and (b) the educated public that depends on standard usage for the meaning of a degree. Therefore the public interest is served not only by warranting that an educational program, offered for fees, meets certain general quality standards but also by verifying -- if that program culminates in bestowing an academic degree -- that such degree has a meaning within common usage and understandings.

That is, the marks and symbols of academic degrees in our time function as a kind of standard currency in society. They can and do change slightly over time; but if changes of their meaning occur too rapidly or without restraint, they lose their value as a common currency.

If, for example, a storekeeper posted a sign saying "10" but explained to some customers that in his shop that symbol actually means 15, then the social value of Arabic numerals would quickly decline. It would no longer have a common currency of meaning. So also the terminology of degrees has acquired common meaning, a "currency" with commercial value.

References:

Hastings Rashdall: *The Universities of Europe in the Middle Ages*; Oxford, 1895.
C. H. Haskins: *The Rise of Universities*; Cornell University Press, Ithaca, New York, 1923 and 1957.
R. Radner and L. Miller: *Demand and Supply in U. S. Higher Education*; McGraw-Hill, New York, 1975.
H. Eulau and H. Quinley: *State Officials and Higher Education*; McGraw-Hill, New York, 1970.

2. Through five years of first-hand analyses of institutions and degree programs in California, higher education specialists at the California Postsecondary Education Commission have found significant efforts to change and dilute the ordinary meanings of academic terminology in attempts to accommodate the current commercial market for titles and degrees.

Regulation 100 (e) "Course"

PROBLEM:

In statutory language the term "course" has various meanings.

PURPOSE:

To provide a single meaning for the term "course" as it is used in regulatory language in order to avoid needless confusion among those who must comply with regulation and statute.

FACTUAL BASIS:

There has been genuine, longstanding dual meaning and usage of the term "course" in education, but in higher education (or "academic degree" education) by far the predominant meaning is the one proposed. Since clients' total costs usually depend on the meaning of this term, it is important to stabilize the meaning by careful definition.

Alternate terminology is available and in common use for the second meaning of "course" in the education realm, such as "program of study," "degree program," and "the full degree sequence."

Regulation 100 (f) "Credit Unit"

PROBLEM:

Institutions of postsecondary education frequently use and publish the term "credit unit" with inadequate explanation of its meaning -- often intending the meaning herein defined as "semester credit unit," but not always.

PURPOSE:

To clarify and provide consistent usage in applying the regulatory standards under statute for fair application among diverse institutions.

FACTUAL BASIS:

Universities and colleges, both public and private, in California make common use of "credit units" as a portable currency of various units of learning attempted and completed. All of California's publicly supported postsecondary institutions follow this convention.*

Even in cases where an institution designs a learning experience that is not measured by instructional time such as classroom hours with an instructor, the design includes an assignment of credit unit value based on a presumed equivalency with standard measures. Institutions using the semester calendar (i.e., two semesters equal one academic year) -- normally use the semester credit unit as their measure of standard currency. See, for example, the *U. C. Davis General Catalog 1989-90*, pp. 57f., for an explanation of this to new students. In a few institutions, students are offered an alternative to letter grades as an evaluation method, but computation of their "course load" and full-time or part-time status still derives from this credit unit system of accounting.

Regulation 100 (j) "Faculty"

PROBLEM:

The statute (§94310) uses the word *faculty* several times and variously ("the faculty is," "faculty, including their," "faculty . . . are assigned," and "faculty . . . in sufficient numbers"), although the Chapter does not include any definition.

Institutions in the field (i.e., private, unaccredited, postsecondary, degree-granting) have a wide diversity of definitions of those known as faculty on their staff, of those who partici-

pate in the direct educational functions of the institution and in the accountability for outcomes.

If an enterprise were permitted to provide most of its "educational services" by means of persons who, however expert, have only an occasional, "independent contractor" status in the enterprise, the line of accountability would dissolve.

PURPOSE:

To define the term *faculty* used variously in the statutory language, and to ensure that the legislative intent is not thwarted by predominant use of persons on occasional, independent contract status with postsecondary institutions.

FACTUAL BASIS:

1. In the United States the term *faculty* in reference to academic institutions is a collective noun and generally means "the entire teaching staff." (Ref. Funk & Wagnalls: *Standard College Dictionary*.)

2. When the meaning is that of one person, the more common term used is *faculty member*, thus reinforcing the idea of "a faculty" as some kind of corporate body of persons. (In European academic usage, "faculty" normally means the same as what Americans call a "college," "school," or even "division" within a university structure.)

3. Despite the varied forms of this term in the statute, it remains clear from the context that (a) the faculty of the institutions addressed here are those who undertake to instruct the students of an institution, (b) faculty qualifications to provide the promised *levels* of instruction are a significant part of the Legislature's concern about institutional quality, and (c) there is some minimum number or ratio of students to faculty members below which the educational quality sinks to an unacceptable level; *numbers* of faculty members are an aspect of quality. This statute recognizes a relationship between the number of faculty members and the quality of education possible. [Ref. §94310 (a) (1) and (2) including " . . . *sufficient* numbers to provide the educational services," and (6).]

4. In regard to universities and colleges retaining people for services under independent contract (i.e., *ad hoc*), the U. S. Internal Revenue Service is reported to hold and operate by the common-law distinction between "employee" and "contractor."

   > Workers are generally regarded as employees if they perform services for someone who has the right to control the desired results or direct the method of accomplishing those results. . . . The control does not have to be *exercised* -- merely having the *right* to control can result in an "employee" classification. (*Chronicle of Higher Education*, May 2, 1990, p. B2.)

   Independent contractors are not counted by the IRS as employees. Clearly, an institution of higher education must exercise some control over, and thus accept accountability for, the quality of instruction and other faculty services through maintaining "employee" status of its faculty.

5. Several institutions visited and evaluated by CPEC staff under the previous statute regulating this class of institution have "retained" a faculty comprised entirely of persons available to perform academic tasks on an ad hoc basis and as independent contractors. Persons with such a relationship are normally called "adjunct faculty." (In a large complex university, such as UCLA, one academic department may also "borrow" selected expertise from another, such that the person "borrowed" holds a ladder faculty position in one part of the university but also is an adjunct member of another part.) Adjunct relationships enable an institution to make use of the special expertise of someone without asking that person to leave a secure position elsewhere; sometimes there is a prestige value that accrues to the individual, also, in the title of adjunct professor.

6. Nothing ignoble is implied here about the relationship called adjunct faculty; but the roots of the word itself indicate that it means *joined to* or *an appendage of* a greater body such as a standing faculty body, but not a regular member.

   Where all or most of the members of "the faculty" [an entity or single component of the institution, as implied in §94310 (a)(2)] are adjunct, the instructional staff with the subject matter expertise for providing the education advertised by the institution has little chance of regular collaborative consideration of the curriculum, little or no peer interaction, and no long-range accountability for the quality of the institution overall.

Regulation 100 (m) "Full-time study"

PROBLEM:

Statute requires institutions to report total number of students enrolled each year and the schedule of tuition and fees, without offering the standard definition of "full-time" and "part-time" enrollment which often enters into such considerations as student census counts, tuition charges and student aid status.

PURPOSE:

To provide the Council and affected institutions a standard criterion for counting full-time status of students, by level of study.

FACTUAL BASIS:

1. The Chancellor's Office of the twenty-campus California State University confirms that, for undergraduate students, "full-time student" means one who is currently enrolled (i.e., for any given academic term) for 12 or more semester credit units or the equivalent. Likewise, the same number (12) constitutes the minimum number of credits for full-time standing at the graduate level, but with a complicating additional factor: *Graduate level course* credits count as 1.5 or, in percentage terms, 50 percent more than undergraduate course credits. If a graduate student enrolls for courses all of which rate officially as graduate level courses, 8 such credit units will count as though

they were 12 for purposes of obtaining full-time status. This conventional practice is recognized by the California Student [Financial] Aid Commission and by the federal Veterans Administration.

Regulation 100 (n) "General education"

PROBLEM:

The statutes state the intent of the Legislature to provide for "*establishing* minimum standards" concerning the quality of education, including that which culminates in the conferring of degrees [§94301, (b) and (c)], assigns to the Council responsibility for "qualitative review and assessment of (an institution's) curriculum" [§94310, (b) and (3)], and further assigns responsibility to the *Commission* for reviewing and evaluating "the effectiveness of §94310 . . . in protecting the integrity of degrees . . ." (§94345).

The statutes do not provide, however, a definition of general education at the postsecondary level, the term currently in widest use for discussing the central issue of curricula for undergraduate degrees in the United States.

PURPOSE:

To provide a standard-use definition of general education at degree level so the Council can proceed to establish minimum standards as required.

FACTUAL BASIS:

1. From the founding period of American higher education, there has been primary need expressed and valued for a highly educated citizenry, for the ability of the civic electorate to make well-informed choices (Article IX, *Constitution of California*, 1879).

   From such civic as well as professional concerns, development of the human personality, and not only the intellect in its narrow sense, has concerned policy makers consistently.

2. Within the past decade, additional argument on grounds of technological change, and the need of specialists for adaptability in the face of such change, has further strengthened the calls for General Education requirements as part of the California college degree.

   Reference: California Legislature, Joint Committee for Review of the Master Plan: *California Faces . . . California's Future;* Sacramento, 1989.

3. Especially, but not exclusively, at the undergraduate level college curricula have provided for acquiring a breadth of knowledge across many different subject fields of systematic inquiry in addition to any specialization. The literature on this subject is enormous, but since the term "general education" has come into common use to designate this breadth, the following are some of the major works published about it:

   References:

Daniel Bell: *The Reforming of General Education*; Columbia University Press, New York,1966.

Earl J. McGrath: *General Education and the Plight of Modern Man.* Lilly Endowment, Inc., Indianapolis, 1976.

Lower-Division Education in the University of California: Report of a University Task Force chaired by Professor Neil J. Smelser; University of California, Berkeley, June 1986.

Arthur Chickering, et al.: *The Modern American College.* Jossey-Bass Publishers, San Francisco, 1981.

4. The Bachelor of Arts and the Bachelor of Science degrees, as distinguished from professional baccalaureate or other degrees, commonly signify that the recipient has engaged in studies, at least on the introductory level, in all the major fields of common academic inquiry.

   Reference: Curricular statements and information in the undergraduate catalogs of California institutions of higher education.

Regulation 100 (o) "Innovative methods"

PROBLEM:

The statute (94310 (b) & (d) uses the term "innovative" and "innovation" without providing a definition. The Council is required to make equitable judgments about widely varying and sometimes unusual practices, in the process of approval of institutions.

PURPOSE:

To provide an empirically based definition of "innovative" as a guideline for site-visit teams to make evaluative judgments in carrying out the intent of the Legislature.

FACTUAL BASIS:

(1) Educational institutions tend to continue labeling as "innovative" changes or practices they retain or criticize decades after the practices first were introduced. Such, for example, is the case of the now-familiar broadcast "telecourse" method of learning.

Reference: California Postsecondary Education Commission: *Using Instructional Media Beyond Campus.* Sacramento, November 1981.

(2) Various combinations of media enable instructors to communicate with students across great distances, and in well-designed courses to provide effective levels of interaction and stimulation for learning. In American postsecondary education as well as British, there is by now a considerable body of experience and experiment on record, and several notable examples of learning systems that have been steadily refined, critiqued, and accredited. The idea or principle of distance learning is no longer "innovative."

Reference: *Empire State College Bulletin, 1976-78.* Saratoga Springs, N.Y., 1976. (Part of the State University of New York system, this college was established in 1971 specifically "to devise new patterns of independent study and flexible approaches to learning . . . off-campus . . . individualized.")

(3) Changes from the norm in the academic calendar and the scheduled times of classes, such as evening and weekend class meetings in dispersed classroom locations, do not make

the type of teaching innovative as used in this statute. Nor does the offering of courses in linear sequence, "one at a time" -- a pattern widely known since 1972.

References: *Executive Magazine*, October 1983, and *National University Bulletin*, Winter 1983-84, pp. 15ff.

(4) The correspondence method, as defined here (see Regulation 204), has been practiced by reputable schools for approximately a century (University of London); the University of California has a division of correspondence instruction, with courses for which academic credit is awarded, but it does not offer entire degree programs by this method.

(5) Institutions that launched notable experimental programs incorporating patterns of distance learning -- depending heavily on guided, independent study and one faculty "mentor" for the student to confer with at regular intervals -- have found it advisable to add significant periods of face-to-face interaction, both between student and faculty and among student peers.

Reference: Union Graduate School, Cincinnati, Ohio; Nova University, Fort Lauderdale, Florida.

(6) For this chapter, educational innovation is considered only in its strictest sense, that is, pertaining to the process and methods of teaching and learning. Different ways of governing and administering the institution could not count for this purpose as "educational innovation." The patterns or "modes" of instruction delineated in the proposed regulations as (a) classroom, (b) correspondence, and (c) distance are familiar enough as patterns that they cannot fall within the intended meaning of innovative. On the other hand, some single new *method* of instruction may be innovative, even if it is utilized within one of the three patterns listed.

Regulations 100(p) and (q) "Quarter" and "Semester"

PROBLEM:

Statutes (§94301 (b) and 94305) require the Council to provide for "establishing minimum standards of instructional quality . . ."and "minimum criteria for approval" of private postsecondary educational institutions; and to determine whether "the educational services and curriculum . . . offers [sic] students the opportunity for a quality education" [94310 (a)(3)]. The statutes do not provide a definition of standard lengths of time used for units of college-level instruction or length of "opportunity for a quality education."

PURPOSE:

To provide common standard definitions of terms concerning durations of instructional time which the Council can use as a guideline for establishing minimum standards of instructional quality and opportunity. The purpose here is not to impose traditional academic calendar patterns on all applicant institutions, but rather to ensure standard terminology for institutions to use in proposing their own equivalencies.

FACTUAL BASIS:

1. The semester has served most degree-granting higher education institutions of North America as the standard length of time for individual courses of instruction. In the 1960s, many institutions experimented with alternative academic calendars, notably the quarter term, the "inter-term" and the year-round "trimester" system. The semester remains the academic calendar benchmark from which such "equivalencies" are calculated.

2. Because institutions vary widely in their use of a "closed study week" before the final week of a term, and in whether they count a week of examinations as instructional time, the minimum of 15 weeks of instruction has been used in the regulation definition, and nothing is said about time for evaluation and testing. Some institutions neither use nor regard final examinations as a part of instructional design.

   References:

   Funk & Wagnalls *Standard College Dictionary* (1974) defines semester as: "(a) A college half year. (b) In U.S. colleges and universities, a period of instruction, usually lasting 17 or 18 weeks."

   WASC Accrediting Commission for Senior Colleges and Universities: *Handbook of Accreditation;* Oakland, California, January 1988, pp. 201 and 204. Definitions of "Unit of Credit" and "Semester" and "Quarter."

Regulation 100 (s) "Tuition"

PROBLEM:

Statute §94310 (b)(9) requires a qualitative review and assessment of "Tuition, fee, and refund schedules," while §94312 (d) sets forth refund requirements regarding "the unused portion of tuition fees and other charges" and uses the term "institutional charges for the term of instruction . . .," and "total costs of attendance including "tuition, fees, . . . shop and studio fees, and any other fees . . . students will incur upon enrollment." Yet section 94302 does not offer a definition of "tuition," affected institutions as well as the Council need a clear definition of "tuition" for equitable implementation of the statute.

PURPOSE:

To provide a clear and common definition for use in distinguishing among several kinds of costs to students in institutions applying for State approval.

FACTUAL BASIS:

1. Tuition has a clear and standard dictionary definition in which it pertains only to instruction, not ancillary charges, costs or fees.

   Reference: Funk & Wagnalls: *Standard College Dictionary*, 1974 edition.

2. Efforts to describe actual costs to a prospective student sometimes remain ambiguous because of failure to make distinctions such as: whether the tuition stated is for (a) a

semester, (b) a year, (c) the entire degree program; whether the fees are (a) one time only or (b) for each term of enrollment. Higher education specialists at the California Postsecondary Education Commission report having encountered such ambiguity frequently in bulletins and catalogs proposed during the 1980s by unaccredited institutions applying for State authorization.

3. *The Claremont Graduate School Bulletin 1987-1988* is a sample and model of clarity. Within the first two paragraphs, prospective students will easily grasp that tuition figures pertain to a semester (are computed by semester), vary according to the amounts of instruction a student enrolls for, and are distinct from any other charges by the institution.

Regulation 110 Diploma Programs Offered by Degree-Granting Institutions

PROBLEM:

Some institutions established primarily as degree-granting schools find it advantageous, to offer a certificate or diploma appropriate to completion of a shorter program of study. Statute does not specify a way for the institution to gain State approval without going through two complete and separate application processes, with attendant costs.

PURPOSE:

To provide to the Council and to such institutions, a principle to follow in accommodating their desire for approval of both vocational and degree programs.

FACTUAL BASIS:

1. There are postsecondary education institutions in California which offer, or desire to offer, programs leading to academic degrees as well as programs usually shorter, leading to diplomas or certificates but not a degree.

   This dual nature raises a question of whether the institution must meet two different sets of criteria and their attendant costs.

2. It is common for degree-granting institutions to offer their students who cannot or do not wish to complete an entire degree program some official designation or title for successful completion of the shorter learning program undertaken -- usually a "certificate of completion" or a "diploma." Some students, for example, choose for financial and family reasons to take only courses of an immediate, applied nature for gaining employment. Some institutions permit re-enrollment at a later time if such students return wishing to complete the longer degree program.

3. Some associations of institutions in a particular vocational field or specialty conduct accreditation of training programs in their specialty, which are not necessarily degree-oriented but job-readiness oriented.

4. Statute assigns to the California Postsecondary Education Commission the responsibility to report to the Legislature on the effectiveness of the law in "protecting the integrity of degrees and diplomas . . ." [§94301 (h)] indicating thereby the Legislature's concern about the meaning of both types of awards in California.
5. The State does not want to "cede to the nongovernmental accreditation process" [§94301(h)] its responsibility for oversight of quality in higher education.
6. Therefore, any and every private institution desiring to award diplomas and certificates in California, *regardless of its other enterprises*, if any, should be subject to the requirements for State approval of both types.
7. Regulation 110 as drafted does *not* preclude such cooperation as needed for the Council to carry out multiple functions or missions with a single site visit, does *not* require separate visits for separate functions, and thus does *not* make inevitable a complete redundancy of costs.

Reference: Acupuncture schools, law schools, business schools.

Regulation 120 Request for Approval of Substantive Changes

PROBLEM:

During the period for which approval by the State is to remain valid, various changes linked closely with the quality sometimes occur in an institution, and the State cannot continue to warrant to the public between costly site visits that the altered institution remains in compliance with the minimum standards. Yet to prohibit changes in a blanket fashion could constrict unduly the institution's ability to respond to market and other external conditions.

PURPOSE:

To provide to institutions an orderly means of retaining flexibility as a competitive enterprise while ensuring to the State a means of sustaining its consumer protection role of warranting the continuous quality of approved institutions.

FACTUAL BASIS:

1. In §94330 (k)(5) and elsewhere the statutes assign to the Council responsibility to "maintain" the prescribed minimum standards. This means the responsibility is continuous, not only periodical as site visits. The Council is charged to determine whether "at any time" an institution has deviated from the standards for approval.
2. There is general agreement among institutions of higher education in California that certain types of change are "substantive" -- i.e., have the potential to affect the nature and quality of their programs -- and they commonly cooperate in reporting such changes to one another. The member institutions of not only the regional accrediting

associations but also of national associations routinely submit notification of changes in: ownership, control, major program, location, or name.

Cf. *WASC Handbook*, pp. 152-156, re: requirement of advance approval; and *NATTS Standards of Accreditation*, p. 12, re: new program, change of control, etc.

3. §94330 states that approval "shall be nontransferrable" and requires, for change of ownership, control, or location, prior approval by the Council. (Also defines "change . . . ownership.")

4. Statute also requires that "whenever an owner . . . operates an institution at different locations, an application for approval shall be filed for each location" [94330 (f)]. Thus, new branches regardless of how near or far require prior approval.

5. The Council has the authority and responsibility to consider each degree program within an applicant institution, and may approve these selectively (i.e. approve some but not all) in the site-visit and evaluation process. It is precisely at the level of degree programs and courses that the Council must discern and decide whether an institution has, for example, sufficient and appropriate faculty expertise to offer the proposed instruction and degree. Therefore, it follows that the Council must make such a determination if and when an institution desires to *add* a degree program during the course of its current period of approval.

6. *Name and purpose:* The name of an academic institution is its first line of promotion, the means not only of identification but also of reputation building. Its name becomes important to those who receive degrees from the institution; elements of the name -- such as *University* or *California* -- imply certain characteristics, generate certain expectations among those not acquainted with the institution. The name can also tend to differentiate an institution from, or associate it with, another institution of similar name. So there is a legitimate state interest in whether an institution which draws its constituents from the general public changes its name; there is public value in requiring prior approval for a name change.

   Cf. Change of corporation name, "Corporate Filing Division" under Secretary of State.

   If the institution changes or amends its statement of purpose, it is logical to expect changes in its program or standards. If, for example, it changes from non-profit to profit-making corporate status, one expects that fact to affect its program, tuition, or other facets of activity. Several different kinds of change of purpose might wield significant effects on its educational functions.

   The Council needs "prior approval" authority in order to (a) avert misleading terminology, (b) prevent duplication and near-duplication of names of other institutions, and (c) protect current students and alumni/ae who have a vested interest in the name of the institution, and (d) purge its own directory of institutions whose purpose no longer includes academic learning objectives and the consequent bestowal of degrees.

   Cf. California Corporations Code, §201-b, governing registry of corporation names and proposals for change, authority.

Regulations 201 Institutional Mission, Purpose, and Objectives

PROBLEM:

The term *education* in the English and other western languages never has had a fixed meaning in terms of a single program or product/outcomes to achieve; it is an "idea word," and the same is true of the phrase *higher education*. Therefore, within the general idea of being a provider or vehicle for higher education, there is room for a vast variety of legitimate aims and purposes for sponsors of such providers, all having to do with "shaping" or developing the human thinker and decider. This in turn means that, in order to gauge the ability of an institution to educate its clients, one must first identify specifically what the institution's leaders want to accomplish within the large and general scope of education.

PURPOSE:

To allow an institution to define and delimit the aims on which it prefers to be judged or evaluated.

FACTUAL BASIS:

1. All educational institutions advertise to potential student clientele, and sometimes to potential donors, the ostensible purpose(s) for which they (the institutions) were founded and what they propose to provide to each student-client. Perusal of many college catalogs in California shows that these statements usually range from the purely ideal to the exclusively practical. Sometimes, an institution's statement of ideals fails to relate these with practical provisions that help an outsider to understand the connection of the ends with the means.
2. Regulation 201 invites an institution to provide a statement specific enough to enable a public body to examine the institution's capabilities on the basis of its own, rather than the public body's, aims and intended outcomes.
3. If the institution wishes to claim that it has something different from other institutions to offer to potential clients, this statement is an appropriate vehicle for featuring such a differentiation. This statement is its opportunity to make a brief statement about such advantages, and for the State to verify them.
4. Re-stating what the institution already declared about its incorporation status to the Secretary of State helps the Council to understand in context information such as the current financial statement and other indicators of long-term stability of the institution.
5. *The name* of an institution is the first means by which the public acquires an impression of its general nature. While the selection of a name remains in most ways the prerogative of the institution, some terminology would prove misleading to the public as, for example, the use of the two words *California State* in the name of a private institution. Use of the term *University* evokes expectations of an organization with complex

structure, not of an organization with only one degree or special field. The regulation 201 also permits the Council some discretion for avoiding near-duplication of names between two dissimilar institutions, as well as the use of mischievous or capricious terms.

7. Section 94310's standards make clear that degree-granting institutions are to provide serious instruction and other active assistance for learning, and not offer themselves merely as willing brokers between client-learners and whatever fields of expertise they desire to enter. In other words, a bona fide educational institution educates and offers some pre-planned program of its own for doing so, along with a substantial core of resources needed. This by no means rules out participation by a student in shaping and individualizing the educational plan; it ensures however that the educators declare forthrightly the areas of their expert contribution to the process.

Regulation 202 Governance and Administration

PROBLEM:

Statute (§94310(b)) charges the Council with adopting regulations to address the financial stability and governance of private institutions of postsecondary education, but does not specify what types of governance structure the State will regard as appropriate and leaves that matter to the Council.

PURPOSE:

To provide a guideline for the Council's qualitative assessment of institutional governance which is grounded in California's practical experience and thus addresses the public interest, while leaving to the institution flexibility for determining its policies, support, and educational directions.

FACTUAL BASIS:

1. In California as in other states of America, the marshalling and administering of resources for support of private higher education institutions open to the public has been treated through most of the State's history as a public trust, as a function which affects the society at large and not only as though higher education were a commodity for transactions of private commerce. (Ref. Paul Mason: *Constitutional History of California*. Assembly, California Legislature, Sacramento; 1971. Cf. the *Constitution of 1879*, Article IX, Sections 9 through 13, and Section 15.) From its earliest instances, the State conferred legal rights and privileges for overseeing private academic institutions upon corporate bodies of trustees, not upon individuals. Throughout its first century as a state, California made explicit that its legal relationship with a degree-granting institution assumed a body of trustees at the apex of its governance structure.

Cf. California Postsecondary Education Commission: "Origins and History of State Licensure of Private Postsecondary Education . . . from 1850 to 1977," Appendix E in *State Oversight of Postsecondary Education*; Sacramento, June 1989.

This California experience is not unique but simply reflects the judgment which prevailed in the U.S. generally: "The lay board of trustees at the campus level [is] the principal governance feature of private colleges and universities . . . throughout the history of the United States."

Reference: Task Force on State Policy and Independent Higher Education: *The Preservation of Excellence in American Higher Education -- Essential Role of Private Colleges and Universities*. Report to Education Commission of the States, Denver, 1990, p. 11, "Stimulation of Autonomy, Diversity, and Innovation."

When in 1958 the California statute relaxed that requirement by silence, it did so in order to include nondegree-granting vocational institutions along with degree-granting ones under the same State regulatory process. That is, the State began to regulate vocational training institutions as institutions of postsecondary education also, rather than as private business enterprises (CPEC: *State Oversight*, loc. cit.).

2. Further precedent for requirement of public interest representatives on the governing body of a private higher education enterprise appears preeminently among the criteria of the U.S. Department of Education for listing an accrediting agency as "nationally recognized." Such an agency shall make "provisions for the . . . inclusion of representatives of the public in its policy and decision-making bodies responsible for its accrediting activities, or for the retention of advisors who can provide information about issues of concern to the public.

   Reference: United State Department of Education: *Nationally Recognized Accrediting Agencies and Associations: Criteria and Procedures for Listing by the U.S. Secretary of Education and Current List*. Washington, D.C., January 1988, p. 8.

3. Some institutions owe their beginnings to the effort of one person or family. But nearly all those that endure have lodged the oversight responsibilities in some form of multi-member board. A corporate board holds ultimate responsibility in such diverse California institutions as Northrop University, California Lutheran University, Golden Gate University, Dharma Realm Buddhist University, Heald College, and National University.

4. *Alternative Structure Considered:* In public testimony on June 26, 1990, the president and chief executive officer of a large network of degree-granting "technical institutes" (also self-described as "career schools") very strongly objected to "this board concept" which "has little relevance for a private corporation *which already has its own board* structure." This education and training corporation is a wholly-owned subsidiary of a larger corporation for which education is not the chief enterprise. The president envisions this proposed regulation as requiring a *new* and *additional* board beyond the parent corporation to which he presently reports. While the State must remain sensitive to the rights of a corporation to diversify, recent American experience of conglomerate enterprises has not provided compelling evidence that any educational products and services improve in quality nor, indeed, that the newly-purchased subsidiaries become

more durable as a result of conglomerate management. If the owner-corporation has a serious and durable interest in a degree-granting education enterprise, the requirement that its corporate board *either* serve as the trustees of that special enterprise *or* appoint special trustees for that specialized purpose seems like a modest set of alternatives. This argument addresses, of course, only such enterprises as want *to confer degrees* in the academic tradition, and *not* the broader array of technical career "job-training." If a parent corporation, located outside of California were not to assume a trustee responsibility for the nurturance of its higher education institution in California, then it would not give promise of the level of institutional stability and public accountability envisioned by the State now and through most of its history.

Cf. §94301(a)&(b), "institutional stability," "business practices," "transient" and §94310(a) "ensure . . . capability of fulfilling.")

5. In instances where two spouses are principal owners, a three-member board could not ensure sufficient diversity of perspectives whereas a five-member board size substantially increases the likelihood of such diversity. Furthermore five places provide greater continuity of membership in cases of sudden and unanticipated vacancies.

6. Most institutions today, especially among those which tie their programs to specific and identified industries, create and rely on advice from advisory committees from their larger constituency. There is nothing in this regulation which requires disclosure of proprietary information nor yielding up authority to an advisory body.

7. *CEO Not a Voting Member:* As the top policy making and fiduciary body, the trustees need unhampered freedom to determine who fills the position of chief executive, the one who executes policy. The executive, on the other hand, needs unencumbered entree for reporting to, advising, even exhorting the trustees. Especially where a board is small in number, it is awkward for an employee of a board to be casting votes, even deciding votes, along with one faction or another -- also awkward for the others then to be voting on the compensation of a fellow member who votes with or against them on all issues. The CEO commonly serves as an *ex officio* member without vote, and may even function as an executive secretary. Certainly full voice with its attendant opportunities for persuading and recommending policy and with primary access to information about current conditions of the institution, as well as influence in the nomination of new trustees, afford a chief executive immense potential power for guiding an institution.

   In the case of a five-member board, selection of a chief executive as a voting fellow-member would, of course, present the prospect of a four-member vote split evenly.

8. *Defining Administrative Roles, Positions, Duties:* Experience of site visit teams during the most recent five-year period to institutions applying for State authorization (previously under §94310.3 in the Education Code) consistently demonstrated that institutional administration benefits from an external requirement to describe basic duties as well as lines of authority and reporting both in written prose and in organization charts, making the two agree with one another. These are effective and often-needed aids for clarifying and communicating the intent of the principal officers for how the

institution shall operate. Frequently, during that five-year experience, the drafters of an application neglected to show how the administrative structure connected with the actual instructional operations of the school. Sometimes this "neglect" within the application reflected an actual and significant lack of oversight of instructional operations. (California Postsecondary Education Commission: Survey of notes and applications for §94310.3 site visits)

9. *Faculty Role in Governance:* In degree-granting higher education, the chief instructional role and the role most requiring scholarly expertise in one or more disciplines is that of the faculty, individually and collectively. It is *not merely for their skills of instructing but* even more for their expertise in a body of knowledge and theory that institutions of higher education employ the members of their faculty. In administrative judgments about such matters as curriculum, program evaluation, proposed new programs and the prospective "student market," using the information and advice of any good faculty body helps to avoid costly mistakes. Pivotal assistance to administrators from the faculty for healthy development of the institution occurs in their participation in peer review and screening potential new members of the faculty; an expert in a particular specialty provides essential insights for selecting a future colleague. Faculty participation in this process often proves critical, also, to long-term faculty morale and continuity, without the administration's surrendering any decision-making prerogatives. Furthermore, functions of the faculty as a body of peers provide for the students under their care an essential model of collaboration for inquiring. The idea of academic, degree-granting education is not embodied by programs where the teaching staff are simply a list of individuals who meet their assigned classes but have no interaction with peers.

   Reference: H. Bowen and J. Schuster: *American Professors -- A National Resource Imperiled;* Oxford, New York, 1986, p. 21. (This book, with distinguished sponsorship and participants, reports on the *premier* study of American college faculty members of the 1980s.)

Regulation 203 Curriculum

PROBLEM:

Statute §94310(a) assigns to the Council the responsibility to conduct "a qualitative review and assessment of . . . each degree program" of an applicant institution, including the curriculum and "course of study," while leaving to the Council "the establishment of minimum criteria" (§94305(b)) for that process.

PURPOSE:

To provide basic criteria by which the Council can judge the structural quality of degree-oriented curricula while not examining the actual content of instruction.

FACTUAL BASIS:

1. By implication, the statute requires that, for approval, to confer postsecondary degrees, an institution have and articulate an actual curriculum for each program it advertises. This means in part, that (as under the previous statute) an institution must indeed offer prepared instruction and not merely serve as a broker between a prospective student and one or more experts whom it would then (after the student's enrollment) engage temporarily to teach what the individual student proposes. Some institutions have attempted to yield this task entirely to student clients -- especially the "mature students." But the statute envisions that the institution will already have some expertise in selected fields of learning and will have determined some broad outlines that should form the foundation for further development of a student's narrower specialty. So the institution must propose and name those fields and specialties for which it has gathered sufficient resources (including expertise) to offer instruction. Once having done that, the institution may elaborate its instructional design to invite students to propose further adaptations, combinations and ways of customizing the institution's offerings to individual learning aims as long as they fit within the reasonable bounds of the institution's demonstrable capabilities.

2. In order to assess the adequacy of an institution's resources, especially its faculty, as required by statute, the Council must be able to gain a clear idea of what subjects the institution proposes for each faculty person to teach. The Council then can match that information with the documented experience and expertise of the faculty member.

3. A course outline contains less detail than a syllabus which often the individual instructor supplies by the beginning day of a course. An outline provides a general definition of the subject(s) to be taught, tells whether it connects with other courses (e.g., prerequisite, subsequent/advanced, laboratory/practicum, etc.), and how the subject matter is to be broken down into sub-parts for study. Providing a course outline, as institutions customarily do in curriculum-building, still leaves great latitude and decision-making to individual professors/instructors in developing the course, where that is desired.

4. Because instructional faculty members are those in an institution who interact most continuously with the students, they tend collectively to gain the quickest insight into strengths and weaknesses of the curriculum. For example, the instructor of Course "B" soon notices whether students have learned and retained the main principles of its prerequisite Course "A." Such firsthand exposure to many students makes faculty members the primary resource for curriculum specialists. An institution which fails to obtain feedback from instructors on the adequacy of its curriculum may serve some ideal student rather than the client actually enrolled in its program. The regulation does not move ultimate authority from administrators and trustees, but simply requires that the subject matter experts have a defined role in determining how their portions of the curriculum fit effectively into the whole curriculum.

Regulation 204 Instruction

PROBLEM:

Statute (§94310(b)) directs the Council to perform a "qualitative review and assessment" of an institution's instruction, including the appropriateness of faculty assignments, but leaves to the Council the responsibility of establishing minimum criteria and rules for such assessment.

PURPOSE:

To provide rules for assessing the instructional function of degree-granting institutions in California's private, unaccredited postsecondary education sector, without touching on instructional content.

FACTUAL BASIS:

1. Statute (§94301(a) and §94302) envisions instruction as a necessary and principal aspect of degree-granting postsecondary institutions in California, while regulations elaborate on the definition of instruction broadly so as not to prescribe any particular form. Avoiding the available alternate language, the statute mentions instruction first as the leading aspect of postsecondary degree-oriented education.
2. Requiring that instruction be "the central focus" of the institution's degree-oriented educational program carries forward the legislative intent to carefully delimit the use of academic credits for prior/experiential learning (cf. §94310(a)(7)); an institution is not to serve primarily a brokering function nor a certifying function, but is to have a prepared and formal program which its own faculty conduct for teaching students.
3. Requiring that instruction be "the central focus" of the institution's program helps to protect against other misuses of degree-granting authority -- for example, exploitative use of student "interns" in a professional business beyond reasonable amounts of required field experience.

   An enterprise with heavy concentration on research led by competent specialists, may well devise a degree program that provides active involvement of prepared students. Such an enterprise must be able to distinguish a sufficient body and proportion of its staff time and other resources that are assigned to the proposed degree program and its instructional functions. The same principle obtains for a business firm which wants degree-granting authority for a former "training and development" component. This derives directly from the fact that higher education and academic degrees continue to signify a strong emphasis on theory and conceptual learning as well as skills and applied learning.
4. The second part of Regulation 204(a) in regard to "appropriate modes of instruction," will cause an institution to reflect critically on its educational methods and modes (styles) of instruction. During the past decade, some institutions have applied to the State with plans indicating they had not done such reflecting -- one, for example, wanted to include a college introductory course in chemistry with no laboratory facility for

demonstrating chemical reactions, while others generalize that, because they cater mainly to clients at least 25 years old, independent study methods necessarily fit their students best. The Council will, by this regulation, simply expect the institution itself to know and reflect on various learning styles, its educational clientele, and its chosen strategies for instruction.

(Reference: California Postsecondary Education Commission: Notes on site visits, 1984-1990.)

5. An important reason for Regulation 204(b) and "recognizing" the three standardized modes of instruction is to formally remove them from the realm of what an institution may label "innovative." Some enterprising schools still advertise these modes of learning as though they were still innovative decades after becoming well known. Thus an institution will not beseech the Council for special consideration solely on the basis of these approaches for which a considerable body of experience has accrued upon which to base some quality assessments. Special consideration for "innovations" will be reserved for yet newer approaches. [Regulation 204(d)].

6. In re: "Distance instruction requires periodic meetings *between faculty and students and among student peers*," at least two regional accrediting associations in the United States and the pioneering British Open University have determined through experience that purely solitary learning lacks, for academic degree-aimed purposes, essential interactions of the student with peers as well as among instructors; that is, important learning, albeit sometimes less measurable in quantitative terms, occurs in these interactive processes, and this must be provided for in designing distance learning programs (NCAAHE, SASC, BOU).

   Reference: For support for definition and discussion items on distance learning, see two articles in *Change*, July 1990: Daniel Granger, "Open Universities," and James W. Hall, "Distance Education -- Reaching Out to Millions." Also, California Postsecondary Education Commission: *Linking Californians for Learning;* Sacramento, 1981 (especially discussion of "telecourses").

7. On correspondence education, the University of California began its correspondence courses in 1892 and created its Extension Division in 1892. Cf. *UC Extension Correspondence Courses*; Berkeley, 1990, especially p. 44, "How Independent Study Works," and p. 45, "Independent Study Does Not Offer Degree Programs."

   There are several reasons for Regulation 204(c), requiring that a minimum of three teaching faculty contribute to the guidance, instruction and evaluation of any one student for a degree.

8. One of the chief marks of an "academic degree" -- i.e., characteristics which people commonly expect of the bearer of such a title -- is the ability to view a subject or body of knowledge from multiple perspectives and thus to "step outside" the distortions of a single viewpoint. Even if one scholar had a specialist's knowledge of all the subjects which comprised the degree program of a particular student -- a rare occurrence -- the single viewpoint of that person could not guarantee to his/her disciple an encounter with diverse perspectives as expected of a whole degree program. A second reason is that, in fact, few instructors are expert in all the subjects that comprise a baccalaureate degree program for instance. The "Robinson Crusoe-as-professor" model has little

application in modern academic work. Thirdly, the integrated planning, collaborating or even disagreeing among knowledgeable teachers can provide an important source of learning in itself.

For all three of the foregoing reasons the combined knowledge, perspectives, and differences of at least three persons provides the minimum depth of experience/learning a degree should signify.

Furthermore, interaction of ideas and perspectives, a triad generally proves much more dynamic or provocative than a dyad; this is a major reason for fixing three as the minimum number of faculty members directly responsible for teaching and directing a student through a degree program.

Professional degrees, while often representing less extensive attention to theoretical and contextual background than academic ones, and more practical and strategic applications, nonetheless need multiple perspectives for similar reasons. For example, a corporation might have an excellent training program suitable for its own middle management personnel; yet if in a degree program all management subjects had only a single "headquarters" viewpoint, such an education would seriously limit the competitiveness of the students; and foster "company town" way of thinking. With at least a triad of faculty perspectives, involved in a degree program such constriction -- while still possible -- is less likely.

References: California Legislature, Joint Committee for Review of the Master Plan: *California Faces . . . California's Future*; Sacramento, May 1988, pp. 84f., "Undergraduate Education"; and K. Mortimer *et al: Involvement in Learning*; National Institution of Education, Washington, D.C., 1984.

9. Regarding Regulation 204(d) "Innovative methods of instruction," the statute [§94301(g) and §94310(b)] requires that procedures adopted by the Council "shall foster the development of high quality, innovative educational programs and emerging new fields of study within postsecondary education."

   Since it is not possible to anticipate with precision the nature of a proposed innovation, Regulation 204(d) designates the institution itself as the appropriate provider of evidence to demonstrate the effectiveness of any new method or pattern of instruction which it introduces. The regulations, by deliberate omission, place no limitation on "emerging new fields of study" which institutions may address in their programs. In higher education and the academic research/inquiry tradition, *not* the subject matter but the ways of approaching and looking into the subject matter defines whether the process and outcome constitute "higher" learning. Theoretically no *subject* matter is beyond the realm of legitimate reflection and systematic inquiry.

Regulation 205 Faculty

PROBLEM:

Statute charges the Council with responsibility for "ensuring minimum standards of instructional quality . . . for all students" [§94301.(a)] and "establishing minimum standards concerning the quality of education . . ." [§94301(b)], and to carry out this responsibility through "the establishment of minimum criteria for approval" (§94305). The Council is to conduct a "qualitative review and assessment of . . . faculty, including their qualifications" [§94310(b)(5)], so as to determine whether "the (institution's) faculty is fully qualified to undertake the level of instruction that they are assigned and [whether they] possess appropriate degrees and have demonstrated professional achievement in the major field(s) offered, *in sufficient numbers* to provide the educational services." These statutes do not specify, however, the criteria and measures to be used in determining "quality," "qualified," and "appropriate degrees," nor what numbers of faculty will suffice.

PURPOSE:

To provide objective minimum criteria to the Council for conducting assigned quality review of a wide variety of private degree-granting institutional faculty, within the general meaning of academic and professional degrees.

FACTUAL BASIS:

1. *Regarding Regulation 205(a)*: "The institution shall retain faculty under contract" because it needs to retain control as well as responsibility for the programs and services it actually provides. In institutions under this statute, faculties commonly have included members who (a) donate their time and efforts without charge to the institution, or (b) teach on a fee-per-course basis, or (c) teach only one or two courses per year, and/or (d) earn their living in a profession not tied directly to the institution applying to confer degrees. Under such conditions, it is difficult for the institution to weld faculty members into a functional body of colleagues or in any other way to ensure the integrity of the curriculum and the degree program as a planned unity. A contract will state the terms expected from each party to it and for what period of time; especially in such instances as when prominent and honored members of the community contribute their time and accumulated wisdom free of financial compensation, the written, explicit contract ensures some objective measure of control by an institution, keeping lines of accountability clear.

   §94302(r) mentions "faculty or contracted instructors," thus making clear its concern about a legal bond between persons providing instruction in the name of an institution and the institution itself. [See above, p. 4, Regulation 100 (j) note re: IRS view of "independent contractors" and control.]

   Under previous statute a set of guidelines, approved by the (former) Council for Private Postsecondary Educational Institutions and used for several years by the Private Postsecondary Education Division of the Department of Education, required individual fac-

ulty contracts on file by an institution. Cf. Question #42, "written employment agreements with faculty."

2. "Sufficient numbers to provide the educational services" [§94310(a)(2)] assumes a direct relationship between the number of faculty positions and an institution's ability to provide the educational services it promises. Educational services include first, instruction and second, educational guidance, evaluation, and other activities dependent on professional/academic judgment.

   In State budgeting and allocation processes for public institutions of higher education, it is common practice to use a formula and definition of "full-time-equivalent faculty" (FTEF), and "full-time equivalent student" (FTES), as distinguished from headcount numbers. The FTEF formula concentrates attention on actual units of work to be performed rather than on the number of individuals performing it. For example, one system posits "16 units of work" as a full workload for one faculty scholar devoting a minimum of 40 hours per week to the institution's effort. Professor A agrees to teach four three-unit courses for a given semester which equal "12 units", and to serve on one faculty committee rated as two units' worth of expert time, in addition to revising a departmental Course for the next Fall term = 2 work units. Thus the departmental administration proposes a full workload for that full-time faculty member, equaling 16 units of faculty work. Professor B in the same department, and full-time, contracts to teach only three three-unit courses that semester, and must determine with the department how the remaining seven units of work are to be fulfilled. Still other members of the same department are, by design, part-time members whose compensation will be determined largely by the proportion of 1 FTEF they work. Two or three such persons may fill one "FTEF" position.

   In many of the accredited independent institutions of higher education in California such an FTEF formula is used.

3. The ratios stipulated here (Regulation 205(a)) represent averages across entire institutions; they do not set limits on the size of particular class sections and thus do not fix even the range of class size(s) which a given institution may employ. The institution itself determines how to distribute its instructional resources while still working within the general or average ratio of students to instructors.

4. For the *classroom mode of instruction* [in reference to Regulation 205(a)] there are various ways to illustrate how large a workload can be represented by a ratio of 25 *full-time equivalent students* (1 FTES commonly computed as 15 Semester Credit Units-undergraduate) to every full-time-equivalent faculty position. Here is one:

   One instructor teaches five sections of undergraduates per week, where each section has 25 students and meets three times per week. Each course enrollee (not counting attrition), will earn three semester credit units, so the instructor, through all five sections (125 course enrollments) will "produce" a total of 375 semester unit credits per semester (equals 25 students, each carrying 15 semester credit units.) If all five sections were for the same course, then this instructor would have only "one preparation," i.e., would prepare essentially the same for each of the five sections; many de-

partments take into account for the workload how many separate "preparations" are required.

To thus "handle" 375 semester credit units, (or 25 FTE students for one semester) including individual advising of students, preparing/planning for the class meetings, and evaluating each student's progress, would constitute quite a full workload in most academic disciplines/fields, and would not leave time for other activity for the institution's or one's own professional vitality such as specialized reading.

5. For *distance learning*, the medium of instruction can vary widely. If, for example, most of the information is provided by means of "telecourse" materials -- video- or broadcast presentations plus printed textbook and resources -- the instructor-of-record (institution's own faculty member in charge) might be guiding students taking a total of 525 student credit hours in a given semester. (If, for example, 175 students take one course for three student credit hours). In actual fact, an instructor of record for a telecourse can -- if working full-time -- service more enrolled students than this (175); but the institution itself needs, meanwhile, *other* faculty members for preparing or revising course materials (including quizzes, examinations, etc.).

   There is little question that, in a learning system using only instruments such as (a) multiple choice answers, (b) in a machine-gradable format, greater economies of class size are attainable. But the regulation in focus now has to do with the *average* student/faculty ratio across an entire institution, and it has to do with educational programs leading to college degrees. Both these factors make the question of "sufficient faculty" more complex than the question of how many students one professor can deal with satisfactorily in a given class period using various media; it has to do also with non-classroom tasks by which an institution's faculty helps to sustain its educational mission and quality over several years' duration. With all these educational tasks included, a ratio of 35/1 approaches the lower fringe of the level of quality required in a sustained program.

   In distance learning systems using certain kinds of instructional technology, the meaning of "teaching faculty" may include professional educators and subject-matter experts directly developing curricular materials rather than meeting directly with students. Where only one or two faculty mentors per term provide all the guidance for an individual student, such guidance for distance learning is the primary institutional contribution to a student between scheduled group meetings. If the mentor has one telephone conversation per week with each student, 35 such students would require an average of seven telephone conversations per day in a five-day week. Assuming that calls are substantive and not perfunctory, they would leave little time for the mentor to keep notes, analyze and critique written assignments, and communicate regularly with the appropriate administrative persons. Thus 35 *undergraduate* students, especially in accelerated programs, would constitute a heavy workload per faculty member and a maximum which would not be desirable as an average over an entire institution. For *graduate* students this number may prove too permissive, too high in actual practice.

6. In *correspondence systems,* defined above in Regulation 204 (b), customarily the principal means of communication for instruction are prepared lessons, often available to the student in one package per subject or course, with written assignments to be completed by the student and returned to the institution/instructor at regular intervals for correcting, commenting and grading. These operate by mail, and by electronic computer communication. The key distinction of correspondence learning resides in the prepackaged and regular response aspects.

   One pivotal measure of "sufficient faculty" for an institution offering degree programs primarily via correspondence methods is the promptness of response from the faculty to the student. Not only the time span within which a student can complete all requirements but also the stimulation for ongoing learning from such dialogue hinges on the pace of this reciprocal action. (It is assumed that the institution returns not only a grade but also some informative critique of the student's submission.) After one week, as a maximum, the interest of the learner falls off quickly, and the learning value of the transaction between student and instructor diminishes swiftly if it has not led to new material. Thus the "turn-around time" should be less than the six working days proposed. As an all-institution average, "six working days" until *sending* the response actually allows the institution a margin of error if it is a new institution or working with new instructional staff.

   Records with which to enable the Council to audit this "elapsed response time" might include:

   - In files of individual students, copies of submitted materials with times logged in, and dates of responses mailed out, plus letters/notes from students regarding promptness;
   - In files of instructional staff members, logs of contacts from and to students; and
   - In files of administration, telephone numbers of recent and current students for sample contacts by site team.

   These illustrate the feasibility of auditing the elapsed response time for correspondence instruction.

7. With regard to *faculty qualifications* (Regulation 205(c)), academic institutions seldom assign or permit anyone to teach students "above their own degree level." The teacher must have certified knowledge in the subject notably more advanced than that of the students both in the assigned special subject and in its general field. For teaching undergraduates, a correlate holds that the instructor should be at least a candidate for a master's degree in the subject taught.

   Outstanding exceptions to this rule tend to underscore that they are indeed exceptional. A widely-used illustration about Eleanor Roosevelt's lack of academic credentials, that she could not hold a regular faculty position to teach International Relations or Political Science primarily calls attention to the very limited number of Mrs. Roosevelts. Another type of illustration is more to the point of this regulation: the occasional newsmaker surgeon who, after X successful operations, is found to have no formal

training in surgery and no valid credentials for it. The regulation's allowance of "up to 25 percent of the faculty in any one degree program" who may have special nonacademic qualifications should easily accommodate valid exceptions while it ensures that, for every exception, the institution will have at least three other faculty members providing continuity with conventions of sound academic practice.

The practice of large universities in employing graduate teaching assistants to help faculty members with the instruction of undergraduate classes is sometimes advanced as an argument for the State to allow broad discretion to all institutions for selecting their own instructors on the basis of perceived competence alone. This argument overlooks important mechanisms for quality control in departments employing such assistants.

8. Faculty candidates with academic credentials from other countries present diverse complications which usually have a straightforward solution on a case-by-case basis. But neither the venerable age of a foreign institution nor sponsorship by its government ministry suffices to guarantee a level of current expertise in any particular department, branch, or "faculty."

   Documentation of scholar/faculty members of recent foreign origin should include, as a minimum:

   - Official documentation/identification, from the originating institution, of the person's academic origins, degrees, etc.;
   - Written testimony as to the person's current performance (i.e., observed competence) from known persons in the same field, discipline, or profession; and
   - Written opinion, by an acknowledged American authority, about the relevant department or school within the foreign institution of origin.

   Reference: American Association of Collegiate Registrars and Admissions Officers: *International Academic Credentials Handbook*; Washington, D. C.,1988.

9. With respect to Regulation 205(d), "faculty who *supervise* doctoral students" are those members of an institution's faculty who accept sole responsibility for guiding an entire phase of a student's doctoral program, working/meeting individually and periodically with that student. The term *supervise* in this context does not mean simply teaching a graduate level class nor serving as one of several members of a student's doctoral committee; a supervisorial function is explicitly designated or acknowledged among the relevant faculty members.

   A key reason for requiring a certain proportion of the supervising faculty, if not all, to have doctoral degrees in the same or directly related field is that the doctorate involves not only advanced information but a particular type of procedure and conceptualizing in the given field of learning. Setting the minimum proportion at 50 percent allows for maximal inclusion of experts with non-academic and applied knowledge in rapidly changing fields, while ensuring continuity with tested academic approaches to inquiry and validation of new learning.

10. The reason for requiring in Regulation 205(d) that a certain proportion of the doctorates originate in institutions accredited as described is that these are the only ones known, *as a class,* to undergo regular peer critique for the purpose of self-improvement, and thus provide the basis for a generalized quality judgment about their faculties as a class. It also ensures that a California institution conferring a doctoral degree will have a faculty with at least half its top degrees from broadly known and time-tested academic institutions, and thus a faculty likely to provide continuity with the conventions of academic rigor and objectivity. Three years of post-doctoral experience and current activity in their own field of scholarship serve as minimum indicators that these particular faculty members, who serve as the active models for the next generation of scholars, are themselves no longer novices but well-launched into the academic profession.

11. Regulation 205(e) reflects that it is the *faculty* (a) on whose expertise the quality of the educational program ultimately depends, and (b) on whose steady efforts over time, as a body, depends the development of quality and reputation in the institution. Regulation 205(e) includes the term "full-time" in stipulating that a faculty body comprised *entirely* of part-time members could not readily "provide the educational services" -- such as "advisement services, academic planning and curriculum development activities" mentioned in statutory language [§94310(a)(2 & 6)]. To fulfill this part of the law with quality requires that some nucleus of the faculty have their primary employment in the institution enabling their primary attention to focus on the development, coherence and consistent functioning of the institution's academic programs.

    This is not a comment on how well part-time instructors compare with full-time instructors in the classroom; that is a different and complex question not addressed here. This regulation speaks to the fact that degree-oriented education consists of more than its diverse instructional activities, and that a degree program must provide more than informational meetings with expert practitioners from the field, engaged for a few hours to instruct.

    Even if an institution hires the best professional practitioners to teach a course or two each year in their specialties, overall quality in a degree program still requires that, at minimum, some peer group of experts integrate its diverse parts, monitor the term-to-term development of individual students, maintain availability ("office hours") for academic support and guidance and provide consistent advice to the decision-making administrators.

    Prior to passage of the current statute, it has been found that, among those institutions relying entirely on part-time instructors for the teaching function, teaching faculty have not participated much in these other functions ("educational services") mentioned in statute as important to the quality of approved institutions.

    (Reference: California Postsecondary Education Commission: Notes and applications for authorization, 1986-1990, under previous CEC §94310.)

    The concern to include full-time members in the faculty of each degree-oriented program rests on two further observations: (a) development of the student's conceptual

approaches to his/her field, and (b) full treatment of the special field as a subject of study. Regarding (a) the student, educators long have recognized a distinction between, on the one hand, simply providing current and advanced information and, on the other hand, forming in students a complex set of attitudes, approaches, and skills, toward the subject of inquiry. For such "forming" to occur, the faculty *over a multi-year period* needs to attend to the ongoing progress and development of students and to the wholeness of their curricula. This tends not to occur among experts who give of their knowledge after work a few evenings per week or on weekends -- the part-time instructors. Normally their strength is current application and advanced information rather than the longer-term development of students and curricula.

Regarding (b), the treatment of the subject itself as a field of study, the mark of degree-oriented education is its provision and concern for *both* current applied knowledge *and* theoretical contextual knowledge; the latter greatly enlarges one's scope for understanding the subject and increases one's adaptability when faced with new and different information about that subject. Current practical knowledge by itself would be especially appropriate for certificate and continuing professional education, but it is precisely degree-oriented education with its attention to context and theory that corporate managers count on for their "decision maker" levels of instruction.

The relevant point is that full-time scholar-teachers in a field are more likely to reflect on and delve further into its theoretical foundations; one often hears this stated as a criticism of full-time faculty by those who advocate greater or even exclusive use of "real-world" practitioners as part-time instructors.

Both the statute and this regulation leave the actual ratio of full-time to part-time members to the discretion of each institution. The Council requires only that the proportion be based on an explicit rationale and policy of the institution, thus enabling the institution itself to revisit the question of this balance from time to time.

12. *Continuity* of work with students must remain part of the consideration of "quality and sufficiency" of faculty as stipulated in statute.

    A turnover of one-half the personnel each year would exceed even the rate permitted on most boards where turnover is a *desirable* objective and the by-laws encourage turnover by staggered terms; in such cases the most rapid rate is one-third per year (33⅓ percent).

    An actual turnover of one-half each year would make it difficult to reestablish working relations among the faculty as a corporate body. The intent should be to retain some minimal continuity for students already part way through their program.

    In summary, Regulation 205(e) attempts to guard a central academic understanding that degree-oriented programs involve the steady guidance and attention of a faculty body of peers who hold one another responsible to establish truth while together rearing a new generation of scholars able to continue the process.

13. Regulation 205(f) regarding the need for *explicit* procedures and expectations between an institution and its employees simply codifies an administrative practice which has

been found helpful for the durability of institutions. Most often, colleges develop for this purpose a printed "faculty handbook." Since the State has an interest in an institution's longevity or durability on behalf of the students as consumers, the practice is made mandatory. (Ref. §94310 (a)(1) and (b)(2).)

14. Regulation 205(g) recognizes that the roles of the faculty as a body are manifold, as discussed above, and not limited to direct instructional tasks in a degree-oriented program. Since faculty members are engaged by an institution for their special expertise in teaching one or more special subject areas, as well as other contributions to the educational enterprise, collectively they represent the single best capability for gauging competence in prospective additions to the faculty. Final authority for hiring and firing remains just where the by-laws of the institution's board place it; this regulation only requires that the faculty's judgments be taken into account.

    Some degree-granting institutions, especially those with a single professional focus, come into being at the initiative of an outstanding practitioner or scholar in that field. The regulation provides legitimation for serious attempts by other qualified individuals to propose additions for the institution's faculty, thus possibly enriching its diversity.

15. Regulation 205(i) refrains from suggesting what a policy on academic freedom ought to consist of, but simply requires the institution to be candid, consistent, and explicit in its policy. This helps both the institution and its faculty to develop compatible working relationships which, in turn, enhance the stability of the organization. Commonly, the term "academic freedom" refers to the latitude allowed to teacher-scholars in what they discuss and positions they express to students -- the "Lehrfreiheit" of German origin; sometimes the term also includes the latitude allowed to students ("Lernfreiheit"). Institutions should have explicit policy on both aspects.

References:

American Association of Collegiate Registrars and Admissions Officers (AACRAO): *International Academic Credentials Handbook*, Washington, D.C., 1988. (Introduction written by Karlene Dickey, Vice President for International Education, AACRAO, and Associate Dean of Graduate Studies, Stanford University.)

Acupuncture Accreditation, Summer 1990. (Newsletter of the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine, Washington, D.C.) (This issue of the newsletter publishes criteria dealing with governing boards of institutions, "preferred designation for degrees," personal growth of students, and syllabi.)

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Stephen Spurr. *Academic Degree Structures: Innovative Approaches*. McGraw-Hill Book Co., N.Y. 1970. (A report prepared for the Carnegie Commission on Higher Education.)

Regulation 206 Facilities

PROBLEM:

Statute [§94310(a) and (b)] assigns to the Council the responsibility for assessing the quality and adequacy of the physical facilities of an institution applying for approval, and provides no further criteria or guidelines for that function.

PURPOSE:

To provide general guidelines by which the Council can make judgments about whether facilities are "adequate."

FACTUAL BASIS:

1. Physical facilities of institutions are as varied as the types and purposes of institutions; thus very few stipulations can apply fairly to all institutions within the class, "private degree-granting."

   Features of size and number should correlate more closely with the enrollment or expected enrollment and staff size. If the faculty are expected to provide regular academic guidance they ought to have designated private space for that function, for example. Students need spaces for mingling with peers before or after classes.

   Lighting and ventilation are general health and safety features applicable to most indoor spaces of human habitation. Most safety and health requirements are based on local (city/county) ordinances and vary from one region of the State to another. Institutions can be required, however, to display evidence of their compliance with such ordinances.

2. Documentation that free or rented facilities are available for the duration of the degree program -- meaning the duration for an entering class or for an admitted student to complete the program -- is needed for protection of students who, if the program were interrupted or moved far from the present location, would find it suddenly impossible or costly to transfer to another institution. Such documentation can consist of a letter with a clear guarantee from the legal owner of the property or a lease document signed by both parties. Some new institutions depend on donated or below-cost property for beginning, and in such "benevolent" arrangements the present regulation strengthens the institution's position for requesting it.

Regulation 207 Financial Resources

PROBLEM:

The statute (§94310(a)(1) and §94311.5) requires the Council to determine whether an institution "has the . . . financial resources . . . to ensure its capability of fulfilling the program(s) for enrolled students," and provides several objective criteria for making such a determination while leaving a number of logical questions unanswered -- for example, definitions of "liabilities" and "assets" for accounting purposes. Furthermore, the statutory language leaves to the Council what measures to follow if an institution is determined *not* to be "financially responsible" as defined.

PURPOSE:

To supply enough supplemental detail to enable the Council to carry out its assigned responsibility regarding the "financial responsibility" of institution applicants for approval.

FACTUAL BASIS:

1. Some indication of financial capability has long been used as a State criterion to "qualify" postsecondary education institutions to operate in California.
2. Regulation 207 supplies, in its first statement, two needed interpretations of statutory language:
   (a) That each institution *shall demonstrate* means that an institution will not qualify for approval if it does *not* demonstrate the qualities enumerated. This clarifies the legislative intent for "identifying" financial responsibility.
   (b) That the capability referred to is to guarantee service only to those persons *already* enrolled as students of the institution, the clients already in "the pipeline" and financially committed to a particular degree program offered by the institution.
3. The term *sufficient assets* should not be fixed in numerical terms in law and must be left to the judgment of a term of informed and reasonable visitors; this also makes allowance for continuing shifts in value of U.S. currency, and other values (economic) that do not remain static and thus, for equitable treatment, ought not to be fixed in law.
4. As stated in Regulation 207, the first purpose of ensuring financial stability of an institution is to determine whether it can sustain all its program services promised to students already entering the program long enough for them to complete the degree program or have a reasonable chance of doing so. The intangible assets, etc. listed in section (a) of this regulation do not, in a time of adversity, contribute to such a sustained capability; indeed, such things as "good will" and "going concern value" quickly evaporate under adversity if it becomes public knowledge.
5. It is much more difficult for a student to transfer credits from a non-accredited than from an accredited degree program.

Regulation 208 Administrative Personnel

PROBLEM:

Statutes require the Council to determine whether an institution has the "administrative capabilities" to fulfill the proposed degree program [§94310(a)] and to complete a qualitative review and assessment of the "administrative personnel" for that purpose [§94310(b)], while providing no objective criteria or detailed standard for the Council's use in making such judgments.

PURPOSE:

To provide criteria for making judgments on the administration of an institution with the greatest possible objectivity so the Council's implementation of this statute will be equitable across diverse institutions.

FACTUAL BASIS:

1. Regarding violators of the Business and Professions Code Section 480, it is useful to repeat here that a degree-granting higher education enterprise necessarily involves more than transmitting, under contract, advanced information that is certified current and accurate to clients who are able to apply that commodity. Degree-oriented education also, to some extent, aims toward a further formation of personal attitudes and approaches *at least* for purposes of self-disciplined, learning, and applications of knowledge. Degree-oriented education is necessarily an interpersonal transaction, and students *regardless of age* seek out personal models and mentors ripe with tacit value systems. Therefore, personal integrity and public rectitude are qualities directly relevant for those entrusted with administrative roles in higher education.

   References:

   Edward Shils: *The Academic Ethic*. University of Chicago Press, Chicago, 1983.

   William Perry: "Cognitive and Ethnical Growth," in Arthur Chickering *et al.*: *The Modern American College*. Jossey-Bass, San Francisco 1981.

2. The "chief academic officer" -- commonly the academic vice president or dean of the college but sometimes the president (depending on each institution's job descriptions) -- must make evaluative judgments about faculty qualifications and must cultivate professional respect from faculty members in order to build morale and basic confidence in the institution. In Regulation 208 (b), it should be noted that "the highest degree *required* of the faculty" means "... required of any individual faculty member," and does not mean either:

   (a) the highest degree actually held/earned among members of the faculty; or

   (b) the highest degree required by the institution to be attained by *all* members of the faculty.

3. In order to make certain of the judgments required of a chief academic officer, that person should have traversed the full pattern of academic steps experienced by most of the faculty whom the judgments will affect.

4. The requirement to "employ a *sufficient* number of administrative personnel" cannot be further specified in regulation to apply to the entire diverse class of institutions without becoming undue restriction; the number must be left to the expert judgment and recommendation of an expert team of reviewers for each institution.

   The several *functions* of administration that need coverage, however, can be named on a general level, and ought to be listed in the Council's design for site visits. One officer for example, normally wields general oversight of and responsibility for the faculty. Another, usually called "registrar," has responsibility for not only *keeping* and filing records, but certifying their integrity; often either this person or the chief of admissions must make informed judgments about the validity of documents received -- of academic transcripts from other institutions, for example. Such officers for an institution need not only to be appointed and under current contract, but also to have documents on file that demonstrate their qualifications for the job(s) described.

Regulation 209 Educational Records

PROBLEM:

The statute (§94310) requires the Council to conduct "a qualitative review and assessment of . . . (an institution's) procedures for keeping educational records," but does not stipulate criteria for the Council to use in gauging such procedures and types of records.

PURPOSE:

To provide the Council with minimal criteria for educational recordkeeping by institutions, that the Council may apply equitably among diverse degree-granting institutions.

FACTUAL BASIS:

1. Regarding the requirement that an institution maintain "at least the following" information on each student who enrolls, there are general reasons for a public requirement of any kind of record:

   (a) protection of the student/client, who may need later documentation of such matters as actual enrollment in the institution, courses taken and other formal learning experiences, in earning the degree;

   (b) protection of the institution when requested to provide documentation of alleged educational accomplishments by enrollees or alumni;

   (c) protection of the public, in verifying that education as advertised is the principal transaction between the institution and the client.

2. Records of the student's *prior* educational achievements and academic credits for prior experiential learning, *as submitted at the student's initiative,* need to be maintained:

   (a) for verifying that the student could and can benefit from the level and type of instruction offered at this institution;

   (b) for verification that the institution itself provides the required proportion of instruction in its degree program;

   (c) for aggregating data on issuance of credit for prior/experiential learning. The incentives are quite large for institutions to inflate the amounts of academic credit allowed toward a degree for experience(s) undergone by a student/client; thus, it is important for a licensing agency to have a means of auditing the issuance of this type of credit. One important consideration is that the institution awarding such credit have the expertise on its faculty for making such a judgment (i.e., about appropriate credit for experience) and that the learning, thus evaluated, have some direct relevance to the institution's course requirements for/in the particular program.

3. The academic transcript provides a running record of the fulfilling of the contract between student and institution. It also provides the most useful academic reflection of the student's experience for a prospective employer.

   There are several reasons for specifying a time limit within which the institution must record a student's enrollment in each particular course:

   (a) It is a primary document of contract, showing what the institution has agreed to provide and what the student has a agreed to undertake in a given time period of the teaching/learning transaction;

   (b) It establishes a basis for the institution's cumulative evaluation of the student's progress and thus, can be an important record for the individual student, as well as for the student's employer or other financial source, for timely confirmation of "satisfactory progress;"

   (c) After two weeks beyond the end of an academic term both faculty and students become occupied with different tasks, courses or responsibilities, and the evaluative process tends to become diffuse or less likely to be completed accurately; and

   (d) Commonly a student needs outcomes (grades) from the completed semester before making final decisions about courses and enrollment for the next one.

4. Where independent study and special learning contract units are undertaken for credit, distinct from regular courses with approved outlines, descriptions and syllabi within the curriculum, a record of the responsible faculty member and administrator along with the learning contract provides the nearest equivalent to approved course syllabi or outlines, and would be needed by anyone later needing to gauge the transferability or equivalence of the learning.

5. Retaining a copy of the student's dissertation or other culminating product toward a graduate degree, is an important means for faculty and peer institutions to gauge qual-

ity at these levels; the sponsoring institution needs such products for both monitoring and demonstrating its quality. Signatures of the responsible faculty committee members provide a critical track of accountability.

6. For five years after the student completes or leaves a degree program, the cumulative file of academic documentation provides to the Council an important means for verifying and auditing the institution's output as it applies for re-approval to operate.
7. Beyond the first five-year period, the abridged file of a student need not be kept in perpetuity but only for 50 years, a span of time approximating the active professional career of a degree recipient. For legal and public purposes, it is only that period during which an inquirer may want or need verification documents concerning a person's academic and professional preparation; beyond the 50-year period, inquiries would almost certainly have a memoir-writing or history-biography-writing purpose rather than a governmental purpose.

References:

American Association of Collegiate Registrars and Admissions Officers (AACRAO): *International Academic Credentials Handbook*, Washington, D.C., 1988. (Introduction written by Karlene Dickey, Vice President for International Education, AACRAO, and Associate Dean of Graduate Studies, Stanford University.)

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Stephen Spurr: *Academic Degree Structures: Innovative Approaches*. McGraw-Hill Book Co., N.Y. 1970. (A report prepared for the Carnegie Commission on Higher Education.)

Regulation 210 Tuition, Fees, and Refund Schedule

PROBLEM:

Statute specifies in considerable detail the procedures to be followed by an institution for the proper disclosure of its charges to the student and of the means for securing a refund if a student decides to withdraw from the institution; yet statute does not provide all details needed for establishing a system of appeal and refund action. Section §94312(d)(5) stipulates that "The Council shall determine the details of the other refund policy through reg-

ulations and shall take into consideration . . . the length and character of the educational program in determining standards for refunds. The decision of the Council shall be final."

PURPOSE:

To provide the Council with standards and guidelines detailed enough to ensure equitable enforcement of the statute and to carry forth an orderly, explicit procedure for both institution and student/client to follow in cases of student withdrawal, or non-fulfillment of contract by either party.

FACTUAL BASIS:

1. The statute clearly recognizes different financial commitments involved, on the one hand, in traditional in-residence/class meeting modes of education and, on the other hand, in correspondence and distance learning modes.
2. The statute also clearly recognizes need for more than one refund policy (Cf. above quotation from §94312(d)(5).) in keeping with the institution's dominant mode of instruction (e.g., correspondence, classroom, etc.).
3. A survey of institution catalogs reveals considerable ambiguity in the language about costs and charges; much of this ambiguity stems from omitting mention whether a tuition charge is for one academic term, one academic year, or the entire degree program, and whether a particular fee is charged each term or only once.
4. Regulation 210(a)(1): An institution must state "the maximum percentage by which tuition or fees may be increased for the following academic year" as a minimum measure of consumer protection for enrolled students. It is more difficult for a student to transfer completed credits from an unaccredited institution, if it suddenly becomes too expensive, than from a regionally accredited one while maintaining a similar program level. This regulation does not limit the institution's freedom to raise prices, but mandates that the institution provide "fair warning" of what the charges might rise to in each year after the student has committed time, money, and personal direction to pursuit of a multi-year program.

ALTERNATIVES:

- An earlier proposed regulation would have (a) required an institution to use its own published charges at time of enrollment (e.g., in its catalog of a given year) as the *contract* for subsequent charges to each student, until the student leaves or completes the degree. In public hearings and comment, some school proprietors testified that such a fixed-price contract could put them out of business in years of unforeseen inflation rates.
- An earlier proposed regulation would have refunded 90 percent of tuition if student duly withdrew during first 10 percent of scheduled class meetings; institutional proprietors testified that this high rate would cause hardship and that properly informed students should bear somewhat more of the financial risk of mounting a program and schedule.

5. In programs with a fixed schedule of classes the pro-rata refund principle in §94312(d) in the case of student withdrawal after the beginning of a term is interpreted in Regulation 210(f) to start at 80 percent rather than 90 percent of tuition paid (withdrawal during first 10 percent of scheduled class sessions) in partial accommodation of the institution's "front-end" costs -- i.e., incurring most of its expenses prior to the beginning of a given term or course.

6. If a student continues to receive/accept instruction into the second half of a term, the institution may be judged to have provided over half of the instruction promised in that term; and in many cases the student by that point can gauge whether he/she has a reasonable chance of receiving a final passing grade. To enable students to recover any significant portion of tuition beyond that point would be tantamount to encouraging students to withdraw from courses if they experienced serious difficulties in mid-term examinations.

7. In Regulation 210(f)(4), such a "fixed price" refund policy does not apply to a student-run book exchange. In such a case, only the pricing policy, with illustrations for clarity, need be posted in advance. For example:

   "Student Book Exchange will pay for textbooks listed by course instructors for future use:

   - Top condition with no added markings (underlining, highlighting, etc.): 75 percent of publisher's list price.
   - Good condition, including binding, but with some markings and written notations: 50 percent.

   No books accepted with weakened bindings."

8. In regard to Regulation 210(k), "return of (any) balance remaining on account," within the past five years there have been instances in which an institution accepted more credits in transfer from another school than it had estimated when the student first paid for registering, and in such ways accrued payment in excess of instruction or services received, whereupon an administrator encouraged the student to "continue on for the master's degree" paid for, in part, by the balance. Regulation 210(k) addresses and prohibits that kind of advance recruitment for "degrees of convenience."

Regulation 211 Admission Standards

PROBLEM:

The statute [§94310(b)] directs the Council to conduct a "qualitative review and assessment of . . . admissions standards" of each institution applying for approval and does not further specify criteria for judging the quality of admissions standards of an institution.

PURPOSE:

To provide criteria and guidelines for the Council to apply equitably to all institutions, in fulfilling its charge of appraising their admission standards for degree programs.

FACTUAL BASIS:

1. Given increasing economic and social pressure for persons to seek a college degree, it is incumbent on institutions that advertise and recruit into degree programs that they select and disclose criteria for gauging the readiness of prospective students to succeed in -- and not only to derive some benefit from -- the type of program offered by the institution, before accepting substantial payment for services.

2. Requiring, as one criterion, the possession of a secondary school diploma "or its equivalent" is the most common and accepted minimum for admission.

   "Equivalency" allows the use of such measures as the test of General Educational Development (GED); it is a term to be read literally rather than as a device for selective leniency. Such standard indicators have become widely available and acceptable in California.

3. Many individuals from other countries or states who have completed some schooling before arrival are applying for admission to unaccredited institutions offering college degree programs; the "equivalency" provision provides such persons some protection against exploitation of unreasonable hopes. "Equivalency" also means that new or prospective citizens will have obtained a modicum of the Social Studies/History framework needed for civic understanding and order in California.

4. The criterion mentioned in Regulation 211(c) brings to attention the necessity of clear and accurate communication in a multilingual society. It is a public need and legitimate concern of the State that an institution disclose and adhere to a standard that will ensure that the language of instruction *itself* is not an impediment to learning in its degree programs.

   Of 20 institutions applying for State permission (§94310.3 or .4) to grant degrees in the latter half of 1990, at least half have a focus or expectation of a predominance of students from countries with a language other than English. In some of these, two or more languages will be used regularly for instruction, and it is very important to know in advance whether each student has the practical language skills needed.

   Source: 1990 applications on file, Department of Education.

5. In regard to Regulation 211(d), disclosure of conditions and limits for transfer of academic credits from other institutions, statute assumes not only that the applicant institution will provide a substantial and meaningful portion of the instruction and educational services entailed in its own degree program(s) rather than function primarily as a broker or banker of academic credits for whatever degrees it may confer, but also that any credits accepted from other sources will be fitting for the level and program. Some California-based enterprises have advertised widely that "qualified, professional adults" will need to learn or study hardly anything further before receiving a degree

most fitting for their career field. Regulation 211(d) will require full disclosure of an institution's criteria for judgment and its maximum allowance of acceptable credits prior to beginning its own instruction and guidance of an admitted student.

6. In regard to Regulation 211(e), bachelors degree as prerequisite for admission into postbaccalaureate degree programs, entry into some traditional "first professional degree" programs commonly begins after the third year of baccalaureate education -- notably dentistry and law. Such junctures usually entail careful and explicit agreements about what the pre-professional program shall include for a smooth transfer into the professional degree program. Institutions with proposed fore-shortened timetables -- i.e., waiving the bachelor's degree as prerequisite for admission -- for such degree programs will be able to identify a model as well as a curricular design carefully integrated with a preparatory program without sacrificing General Education.

Regulation 212 Financial Aid Policies and Practices

PROBLEM:

The statute (§94310) charges the Council to conduct a "qualitative review and assessment of . . . the financial aid policies and practices" of an applicant institution, while it does not define this terminology nor specify the criteria for assessing such quality.

PURPOSE:

To provide basic criteria by which the Council can ensure equitable treatment for all students of the affected institutions with regard to financial aid.

FACTUAL BASIS:

1. Among independent (non-public) colleges and universities on which aggregate data have been available, it is known that some institutions provide much financial aid to needy students, often in the form of grants.

   Source: CPEC. *Independent Higher Education in California, 1982-84*. September 1985.)

2. Where student financial assistance funds are available from sources outside the institution, eligibility depends both on the student's circumstances and on the category of the institution. Where aid is in the form of loans, the institution often serves as the conduit for the funds, even though the individual student is the borrower. It has proved possible that a new student may qualify, apply for and receive financial loans without becoming fully aware of the liability.

   Since the institution benefits by the paid enrollment of its students, it accepts a responsibility to inform, counsel, and educate any aid recipients about the liabilities (if any) entailed, the terms of contract and any potential penalties for breaching the contract.

3. Information about the institution's student loan status is a necessary means for the Council use in gauging the quality of its financial aid policies and practices and how well the two match.

Regulation 213 Scholastic Regulations and Graduation Requirements of the Institution

PROBLEM:

The statute (§94310) charges the Council to conduct a "qualitative review and assessment of . . ." the "scholastic regulations and graduation requirements" of each applicant institution but does not define this terminology nor specify criteria for this review of quality.

PURPOSE:

To provide basic criteria by which the Council can make equitable judgments about the quality of scholastic regulations in applicant institutions.

FACTUAL BASIS:

1. In regard to Regulation 213(a), a maximum of 25 percent of bachelor's program credits for prior experiential learning (as defined), this regulation builds upon a decade of experience in California statute and regulation concerned with the award of college credit for non-instructional learning. For the first time, this regulation addresses, within that general type of credit, the specific matter of "prior experiential learning," as distinguished, for example, from credit by challenge examinations in established courses.
2. Already in 1985, unaccredited institutions wishing to be authorized by the State submitted to the following regulation (Cal. Admin. Code, Title 5, Div. 21, §18803):

   > An institution shall not grant diplomas or degrees solely on the basis of education taken at, or credit transferred from, another institution or institutions, or solely on non-instructional learning experiences. Diplomas and degrees may be granted on the basis of a combination of instruction and non-instructional learning experiences for which the institution details explicit rationale for the awarding of credit and systematic and vigorous method for evaluating it.
   >
   > Note: Authority cited: Education Code Section 94305(b). Reference: Education Code Sections 94310, 94311, and 94312(m).

   By 1985 the former body advising the State on behalf of private unaccredited institutions adopted and commended the following provision to limit the composite/aggregate amount of credit allowed for all types of non-instructional learning:

   a. A maximum of 50 percent of the total degree program may be credited for non-instructional learning, life/work experiences, and challenge examinations.

   ....

d. The institution shall detail explicit rationale for the awarding of credit and a systematic and rigorous method for evaluating it.

Source: "Formally Adopted Developmental Guidelines for Reviewing Degree-Granting Institutions Pursuant to California Education Code §94310.3," Private Postsecondary Education Division, California State Department of Education, May 1987.

Thus the leaders of the industry discerned a need to reaffirm that their institutions were not primarily brokers of credits and credentials for what people already knew, but were primarily educational institutions with expertise for teaching.

3. The present Regulation (213(a)) allows a maximum of credit *equivalent to one academic year of full-time undergraduate study* to be awarded specifically for prior experiential learning, as defined. (It would approximate 30 semester credit units or an average of 10 courses). This does not curtail the maximum of 75 percent (Cf. Regulation 213(b)) of undergraduate credits that may in various ways be accounted for learning outside the institution itself -- transferred from other institutions, for example, or passing a certain score on CLEP tests.

4. Very few institutions in California come close to 25 percent in their awarding of credits for prior experiential learning. The kind of abuse found occasionally in California institutions which this regulation would curtail is illustrated by the following finding on a site visit since 1985: An institution seeking reauthorization had a client seeking a joint bachelor's/master's degree in the field of business management; the client had his own, one-man company, and for each major aspect of that experience the institution awarded, without testing or careful analysis of what the man had learned, diverse amounts of academic credit. Since he had no actual employees to supervise, however, the institution had to seek further basis in the man's prior experience to expedite his credits needed for "personnel management;" such a basis it found, and awarded its client the needed academic credit when it verified that the man was head of and thus "managed" a large and traditional Chinese family.

5. In regard to Regulation 213(b), this requirement reflects the principle already expressed in previous statute that a degree-granting institution, as a teaching organization, should provide at least 25 percent or the equivalent of two semesters of the undergraduate education. For a bachelor's degree, some institutions recommend that their students bring a full two years' work (50-60 semester credit units), including all credits for general education, as transfer units from another institution such as a community college. This principle has been found acceptable by the industry over the past half-decade.

6. This Regulation 213(b) limitation of transfer credits will rule out credits only from institutions whose quality can be questioned on academic, and not merely legal, grounds. (For example, some states have less quality control of their unaccredited institutions than California has.) In the case of credits to be transferred from foreign institutions, the Council must make informed judgments about ways the applicant institution employs to determine their appropriateness under this regulation.

7. In regard to Regulation 213(c), general education requirements for undergraduate degrees and for particular types of other degrees, recognition of general education as a major component of academic degrees is now almost universally accepted and observed. Among public four-year institutions nationally in 1989-90, 55 percent required from 30 to 39 percent of the total credits for a bachelor's degree be in general education; another 23 percent required a general education component of 40 percent or more of total credits. Among independent four-year institutions nationally, these requirements were much greater: A total of 85 percent of the institutions required that 30 percent or more of the required total be earned in general education, and 39 percent of them required more than 40 percent general education credits.

   Source: American Council on Education study findings in El-Khawas, *Campus Trends, 1990*. Cf. *Higher Education & National Affairs*, September 10, 1990.

   Most recently (1989), the Academic Senate of the California Community Colleges approved a curricular requirement for students planning to transfer to a four-year institution, and this includes a distribution of general education courses totaling 37 to 39 semester credit units plus a foreign language.

   Source: California Postsecondary Education Commission: *Transfer and Articulation in the 1990s: California in the Larger Picture*. Sacramento, December 1990.

   These and other current statistics make clear that general education in some specified distribution among the fields of knowledge is understood to constitute an important characteristic of degree-oriented higher education, especially undergraduate, and that 25 percent of the credit units for this purpose constitute a reasonable minimum requirement.

8. Graduate academic education tends heavily toward an emphasis on analytical, conceptual and theoretical inquiry into a given field of knowledge; thus, the principal uses of practical/applied experience in the field toward this type of degree would be to demonstrate the student's aptitude or motivation to continue in that field, and to provide a richer base of practical knowledge/observation on which to practice new analytical skills and theoretical operations. For academic graduate degree programs the practical field experience would not likely plan the same role in higher learning as would graduate level instruction focused on analysis and theory.

   Professional degree programs, on the other hand, might have actual courses for which the "field-experienced applicant" can earn credit through challenge examination specific to the curricular course; this is distinct from prior experiential learning credit.

9. In Regulation 213(e), six semester units of *graduate* credit represents, in most graduate-level education, one semester of full-time study, or 25 percent of a two-year master's degree program. This requirement thus allows an institution from one to three "additional" semesters -- if the student enrolls on a full-time basis -- to influence and become familiar with the master's degree candidate before conferring the degree. Most quality institutions want at least that much of an opportunity.

Prohibiting transfer of credits for degrees beyond the master's degree level puts a lid on the practice of shopping around among institutions with a draft dissertation that has been rejected by an accredited university, to find a "broker" institution willing to award a doctorate for it upon admission and acceptance of transfer credits, with attendant fees and tuition.

10. Regulation 213(e) does not prohibit challenge examination credits for particular graduate courses in the institution's published curriculum; that is the appropriate means for "transfer of knowledge" from another institution at the doctoral level.

11. In regard to Regulation 213(f) -- Credits for Final Product -- abuses of the less prescriptive master's and doctoral programs have occurred when the student submitted a "product" -- perhaps even a published book -- in whose production the institution's educational program played little or no part. Commonly among accredited graduate programs, there may be a stated amount of credit instruction required, on the top of which their institution also requires a thesis, dissertation or other kind of culminating project to which it attaches no further credits as such. Regulation 213(f) allows an institution to offer graduate credits for this part of a graduate educational program; it does not prohibit an institution from awarding credit for each educational process that may be part of the institution's design, including helping a student pursue and complete a "final project." It reserves 75 percent for learning that occurs under the guidance and within the process of the institution, however. The effect of this is to focus attention onto the *educative* function of the institution and the student's growth as a learner under its active tutelage, and to counteract a recent institutional tendency to judge and reward life accomplishments of adults.

Regulation 214 Ethical Principles and Practices

PROBLEM:

The statute (§94310) charges the Council to conduct a "qualitative review and assessment of . . ." the "ethical principles and practices" of each institution applying for State approval while it does not further define this terminology nor specify criteria for judging this standard.

PURPOSE:

To provide the Council with minimal regulatory guidelines by which to apply the statutory intent equitably across a wide range of institutions.

FACTUAL BASIS:

1. In regard to Regulation 214(a), retaining copies of all advertising for a five-year minimum period provides the Council with evidence of the institution's veracity in advertising during the maximum period for which it may be approved.

2. In regard to Regulation 214(b), "bounty payments" to faculty members for recruitment of new enrollees have been understood by the industry for at least half a decade as a conflict of interest and not in the best long-term interest of an institution.

3. In regard to Regulation 214(c), the concept of a university, as distinguished from "institute," "college," "academy," or "school" has been accepted by academics worldwide at many different levels as meaning a complex academic organization. The sources cited below for the common meaning of this word could be multiplied but should suffice to establish its validity as the common meaning in the English language and as the precise legal meaning in some states. California's laxity in preventing public confusion about this in the recent past does not require continuation of the error. The explanation of the commonly understood meaning of the term *university* in Regulation 214(c) is a *minimal* interpretation of the following authoritative sources, among others:

   Pennsylvania Statutes, General Provisions, Chap. 31, 22, §31.3. (Adopted March 14, 1969).

   Asa Knowles, editor. *International Encyclopedia of Higher Education*. Jossey-Bass, Inc., San Francisco, 1977, Volume Nine.

   This regulation, which does not require any currently approved institution in California to change its name, moves to protect the public and consumer from whimsical or deceptive misuse of the term *university*. A single-purpose institution, regardless of how excellent in its specialty, is not a university, but something else. Extreme misuse of the title *university* has been found where, from a single suite of offices or a mailbox, a California entrepreneur advertised in magazines worldwide for essentially one course of instruction, and called this enterprise a "university." (CPEC files from site visits, 1985-90.)

Regulation 215 Library and Other Learning Resources

PROBLEM:

The statute (§94310) charges the Council to conduct a "qualitative review and assessment of . . . the library and other learning resources" of each institution applying for approval, while it does not specify for the Council any further criteria for judging such quality.

PURPOSE:

To provide the Council with basic guidelines for its task, while allowing for the diversity of institutions affected and ensuring to them more than one option in the provision of educational resources and stimuli for their students and faculty.

FACTUAL BASIS:

1. Many if not most of the institutions applying to the State over the past five years for permission to offer degree programs have had admittedly weak or negligible libraries

and most rely on their students' having access to library collections of accredited institutions or public agencies.

Source: California Postsecondary Education Commission survey of findings from §94310.3 and .4 site visits and application materials since 1985.

2. Not only the overall numbers of volumes but also the currency ("up-to-dateness") and diversity of the collection, including professional/academic periodicals, contribute to the quality of an institution's library. Indeed a proper academic library is itself an institution of higher learning when well-staffed and well-used; it is the heart of the academic enterprise, as well as a substantial part of the expense.

   Cf. "Standards for College Libraries, "*College and Research Libraries News*, March 1986.

3. Regulation 215 attempts to accommodate the fact that academic libraries today, partly because of changing electronic technology, are defined by their function rather than by inert collections on shelves; the regulation allows ways by which an applicant institution can comply with quality standards at the level of postsecondary degree programs without possessing on site its own complete research collection. (The best alternative entails counting numbers of volumes and periodicals in a collection.)

4. Both for undergraduate and for professional or graduate academic education, technical ability to locate information about a topic is important but only secondary to acquiring the motivation and habits of searching beyond the expected, seeking out contextual and alternative viewpoints and information. If an institution can convey these learned qualities to its students, the question of the library's location and ownership becomes subordinate. An informal sampling of chief executive officers of small unaccredited colleges in California during 1989 found a ready consensus about this point (California Postsecondary Education Commission staff notes, Summer 1989).

5. Either a professional reference librarian or another class of librarian called "information specialist" can provide both the kind of searching and the example of it in action -- a functioning model -- in planned encounters with students on less than a full-time basis. Such professional persons also can perform timely and needed searches for faculty members, especially part-time instructors. Thus, with this regulation, a relatively new and weak institution could fulfill the educational quality requirement in statute (esp. §94310) for "library and other learning resources" by addressing its educational function(s) rather than by creating its own collections to cover all topics in its curricula.

   Whether or not an institution chooses to build its own substantial library of resources or to retain library staff, as envisioned in this alternate option, the Council will consider the crucial distinction between (a) passive availability of some level of library and resources, and (b) an institution's designed effort to lead, stimulate, and habituate students into active and reflective use of the resources for continuous inquiry. The latter can be the quality which the Council asks an institution to demonstrate for its site visitors. Otherwise library criteria are reduced to numerical counts of shelved volumes, journal subscriptions, dates of publication, etc.

Regulation 216 Student Services

PROBLEM:

The statute (§94310) charges the Council to conduct "a qualitative review and assessment of . . . student activities and services" in each applicant institution, without specifying criteria or guidelines for such judgments.

PURPOSE

To provide the Council with basic guidelines for equitably carrying out its assignment regarding student services.

FACTUAL BASIS:

1. In regard to Regulation 216(a) -- disclosing in the catalog all major services provided to students by the institution -- this requirement fulfills two needs: (a) it ensures that all students of an institution will have the same information about services for which they have paid or which are to be available equitably to all; and (b) it provides a standard kind of documentation of claims advertised by an institution, thus helping the institution to avert needless contention or litigation about false promises.
2. The provision of Regulation 216(b) for students to have an ordered means for convening takes cognizance of the prominent role of peer learning -- learning from one's peers -- in higher education. Contemporary research on learning styles has found this peer influence important at all age levels, although many individuals prefer to study in solitude. Yet common security concerns weigh against an institution's circulation of a "student directory" with personal locators. This regulation mandates that the institution inform students of its willingness to facilitate student gatherings while neither requiring nor necessarily accepting responsibility for such gathering.
3. In regard to Regulation 216(c), some degree-granting institutions maintain job-placement services for students and/or alumni; some allude in recruitment materials to employment opportunities in ways found misleading by some students. Regulation 216(c) is designed to help both the institution and its students to avert such misunderstanding or possibly litigation.
4. Regulation 216(d) addresses the phenomena of recruiting and communicating accurate expectations to students from outside the United States and particularly from cultures speaking a language other than English. As noted above, fully half of the institutions visited for Authorization by the State of California during 1990 are institutions with a major focus on such student recruits. Most California institutions have monolingual instructors, and it is necessary to ensure that special provision is made to prepare student-clients who, otherwise many discover, *after* admission, that their ability in the language of instruction is not adequate for their immediate needs.

5. The normal process for issuance of the "I-20" verification provides opportunities for an institution or its employee to charge a fee for the service. The pressures in the country of origin for a person to gain admission into America sometimes become so great as to encourage illicit use of U.S. "student visas" for entry; this regulation is designed to help the institution as well as the State to monitor in this sensitive legal matter.

   The institution is required to report non-attendance or drop-out of any students whom the institution has assisted in obtaining a student visa. The need addressed herein is not that of federal law but rather of the State's ability to monitor misuses of State approval to operate educational degree-granting institutions.

   (Cf. U.S. Department of Justice, INS Form I-17, "Petition for Approval of School for Attendance by Nonimmigrant Students," 1983 revision.)

6. Regulation 216(f) requiring a published policy and process for student rights and grievances is designed to reduce the volume of appeals for redress made prematurely to the Council for some adjudication, as well as to help institutions avert needless litigation and to help students understand precisely how to pursue complaints about value received. The State's past experience suggests that such a requirement could avoid and alleviate much contention over student grievances.

   Certainly a clear path for due process must be part of the guidelines for citizens who pay fees and contract for services from a private corporation.

Regulation 217 Degrees Offered

PROBLEM:

The statute (§94310) requires the Council to conduct a "qualitative review and assessment of . . . the degrees offered" by each institution applying for State approval, while offering no criteria or guideline by which the Council shall make such qualitative judgments.

PURPOSE:

To provide the Council with basic guidelines and definitions on which to base qualitative judgments and assessments.

FACTUAL BASIS:

1. The use of academic and professional "degrees" and related terminology and standards evolved outside of governmental and legal constraint in America, and has enjoyed widespread consensual agreement on meanings. (See Regulation 100, Factual Basis.)
2. As academic degrees gained commercial value, in this century, especially as used in employment screening as a proxy for certain desired personal skills and characteristics, some vendors have severely diluted the meanings of degrees or diplomas which they have bestowed for profit, thus raising in this field the issue of "truth in advertising" and consumer protection.

Source: California Postsecondary Education Commission files on visits to institutions applying for authorization, §94310(c), from 1985 to 1990.

3. "Consumers" in this context include at least those private firms and public agencies that designate certain degrees as a factor in their employment decisions.

   In many specialized fields it has pivotal significance, with implications about the educational and training content of the degree program, to know whether a "bachelor's degree," for example, means a Bachelor of Arts or of Science or whether it is a professional degree and thus more narrowly specialized in content; and to know precisely in what sub-field the degree-holder concentrated. In the example offered in the Statement of Reasons for Regulation 217, a person might hold a degree with a major or concentration in "psychology," while having no special knowledge of human personality development nor any skills in counseling. It could be dangerous for such a person to gain a position of supervision in the human services field while yet satisfying an official requirement of possessing a degree in psychology.

4. Only by requiring that an institution specify what concentration(s) of higher learning its degree represents can the Council intelligently gauge whether the institution has the expertise and other resources for mounting such an educational program.

5. Under previous statute §94310(c), the application procedure under guidelines approved by the industry included Question 104: "Has disclosure been made of degrees offered by the institution, *including subject areas* and degree levels?" (Italics added.) Where the visiting team pressed such disclosure down to the specific subject of concentration, the applicant institution never objected in principle.

   See also testimony offered by the executive director of the California Board of Behavioral Science Examiners, at a public hearing of the Commission in Sacramento on June 26, 1990.

5. The common public understanding/meaning of each general class of degree is reflected in a survey of current catalogs of California higher education institutions (CPEC Library).

6. Regulation 217(a) does not prohibit an institution from creating new terminology to designate new areas of concentrated study but clarifies and sustains a historical distinction between *professional* degrees in applications of advanced knowledge and skills, on the one hand, and *academic* degrees whose concentration continually strives to use practical knowledge to build, test, illustrate or disprove theory and to provide new analytical tools for understanding.

7. Regulation 217(b) regarding general education and its distribution among the various fields of human knowledge, reflects the discussion of reasons under Regulation 213, above. The principle of "distributing" general education among the several major areas of knowledge logically follows the dual purpose of general education or liberal arts education at the college level: (a) to broaden the context for the student's thinking and thus, improve his/her acts of judgment and sensitivities; (b) to thus ensure that public decisions -- i.e., those made by the electorate or their representatives -- have the benefit of broad and informed civic understanding in addition to specialized expertise. The minimum required credit in each major area (in Regulation) falls below standard

practice in California's institutions of higher education and in other states, as a quick review of college catalogs shows.

In some cases, a major accredited university may report that it has no official requirement for credits in general education; further questioning will reveal, however, that each constituent college or school *within* that university has its own general education requirement and standard distribution, especially at undergraduate and pre-professional levels. Increasingly with technological changes, specialized faculties find flexibility and adaptability desirable qualities that general education helps to cultivate.

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION

THE California Postsecondary Education Commission is a citizen board established in 1974 by the Legislature and Governor to coordinate the efforts of California's colleges and universities and to provide independent, non-partisan policy analysis and recommendations to the Governor and Legislature.

Members of the Commission

The Commission consists of 15 members. Nine represent the general public, with three each appointed for six-year terms by the Governor, the Senate Rules Committee, and the Speaker of the Assembly. The other six represent the major segments of postsecondary education in California.

As of February 1990, the Commissioners representing the general public are:

Mim Andelson, Los Angeles;
C. Thomas Dean, Long Beach;
Henry Der, San Francisco;
Seymour M. Farber, M.D., San Francisco;
Rosalind K. Goddard, Los Angeles;
Helen Z. Hansen, Long Beach;
Lowell J. Paige, El Macero; *Vice Chair;*
Cruz Reynoso, Los Angeles; *Chair;* and
Stephen P. Teale, M.D., Modesto.

Representatives of the segments are:

Meredith J. Khachigian, San Clemente; appointed by the Regents of the University of California;

Theodore J. Saenger, San Francisco; appointed by the Trustees of the California State University;

John F. Parkhurst, Folsom; appointed by the Board of Governors of the California Community Colleges;

Harry Wugalter, Thousand Oaks; appointed by the Council for Private Postsecondary Educational Institutions;

Joseph D. Carrabino, Orange; appointed by the California State Board of Education; and

James B. Jamieson, San Luis Obispo; appointed by the Governor from nominees proposed by California's independent colleges and universities.

Functions of the Commission

The Commission is charged by the Legislature and Governor to "assure the effective utilization of public postsecondary education resources, thereby eliminating waste and unnecessary duplication, and to promote diversity, innovation, and responsiveness to student and societal needs."

To this end, the Commission conducts independent reviews of matters affecting the 2,600 institutions of postsecondary education in California, including community colleges, four-year colleges, universities, and professional and occupational schools.

As an advisory planning and coordinating body, the Commission does not administer or govern any institutions, nor does it approve, authorize, or accredit any of them. Instead, it cooperates with other State agencies and non-governmental groups that perform these functions, while operating as an independent board with its own staff and its own specific duties of evaluation, coordination, and planning.

Operation of the Commission

The Commission holds regular meetings throughout the year at which it debates and takes action on staff studies and takes positions on proposed legislation affecting education beyond the high school in California. By law, its meetings are open to the public. Requests to speak at a meeting may be made by writing the Commission in advance or by submitting a request before the start of the meeting.

The Commission's day-to-day work is carried out by its staff in Sacramento, under the guidance of its executive director, Kenneth B. O'Brien, who is appointed by the Commission.

The Commission publishes and distributes without charge some 30 to 40 reports each year on major issues confronting California postsecondary education. Recent reports are listed on the back cover.

Further information about the Commission, its meetings, its staff, and its publications may be obtained from the Commission offices at 1020 Twelfth Street, Third Floor, Sacramento, CA 98514-3985; telephone (916) 445-7933.

Statement of Reasons for Preliminary Draft Regulations for Chapter 3 of Part 59 of the Education Code

California Postsecondary Education Commission Report 90-32

ONE of a series of reports published by the Commission as part of its planning and coordinating responsibilities. Additional copies may be obtained without charge from the Publications Office, California Postsecondary Education Commission, Third Floor, 1020 Twelfth Street, Sacramento, California 95814-3985.

Recent reports of the Commission include:

90-13 Analysis of the 1990-91 Governor's Budget: A Staff Report to the California Postsecondary Education Commission (March 1990)

90-14 Comments on the California Community Colleges' 1989 Study of Students with Learning Disabilities: A Second Report to the Legislature in Response to Supplemental Report Language to the 1988 State Budget Act (April 1990)

90-15 Services for Students with Disabilities in California Public Higher Education, 1990: The First in a Series of Biennial Reports to the Governor and Legislature in Response to Assembly Bill 746 (Chapter 829, Statutes of 1987) (April 1990)

90-16 Standardized Tests Used for Higher Education Admission and Placement in California During 1989: The First in a Series of Biennial Reports Published in Accordance with Senate Bill 1416 (Chapter 446, Statutes of 1989) (April 1990)

90-17 Academic Program Evaluation in California, 1988-89: The Commission's Fourteenth Annual Report on Program Planning, Approval, and Review Activities (June 1990)

90-18 Expanding Information and Outreach Efforts to Increase College Preparation: A Report to the Legislature and Governor in Response to Assembly Concurrent Resolution 133 (Chapter 72, Statutes of 1988) (June 1990)

90-19 Toward an Understanding of Campus Climate: A Report to the Legislature in Response to Assembly Bill 4071 (Chapter 690, Statutes of 1988) (June 1990)

90-20 Planning for a New Faculty: Issues for the Twenty-First Century. California's Projected Supply of New Graduate Students in Light of Its Need for New Faculty Members (September 1990)

90-21 Supplemental Report on Academic Salaries, 1989-90: A Report to the Governor and Legislature in Response to Senate Concurrent Resolution No. 51 (1965) and Subsequent Postsecondary Salary Legislation (September 1990)

90-22 Second Progress Report on the Effectiveness of Intersegmental Student Preparation Programs: The Second of Three Reports to the Legislature in Response to Item 6420-0011-001 of the 1988-89 Budget Act (October 1990)

90-23 Student Profiles, 1990: The First in a Series of Annual Factbooks About Student Participation in California Higher Education (October 1990)

90-24 Fiscal Profiles, 1990: The First in a Series of Factbooks About the Financing of California Higher Education (October 1990)

90-25 Public Testimony Regarding Preliminary Draft Regulations to Implement the Private Postsecondary and Vocational Education Reform Act of 1989: A Report in Response to Assembly Bill 1993 (Chapter 1324, Statutes of 1989) (October 1990)

90-26 Legislation Affecting Higher Education During the Second Year of the 1989-90 Session: A Staff Report of the California Postsecondary Education Commission (October 1990)

90-27 Legislative Priorities of the Commission, 1991: A Report of the California Postsecondary Education Commission (December 1990)

90-28 State Budget Priorities of the Commission, 1991: A Report of the California Postsecondary Education Commission (December 1990)

90-29 Shortening Time to the Doctoral Degree: A Report to the Legislature and the University of California in Response to Senate Concurrent Resolution 66 (Resolution Chapter 174, Statutes of 1989) (December 1990)

90-30 Transfer and Articulation in the 1990s: California in the Larger Picture (December 1990)

90-31 Preliminary Draft Regulations for Chapter 3 of Part 59 of the Education Code, Prepared by the California Postsecondary Education Commission for Consideration by the Council for Private Postsecondary and Vocational Education. (December 1990)

90-32 Statement of Reasons for Preliminary Draft Regulations for Chapter 3 of Part 59 of the Education Code, Prepared by the California Postsecondary Education Commission for the Council for Private Postsecondary and Vocational Education. (December 1990)